STATE OF MINNESOTA DISTRICT COURT
COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT
- - - - - - - - - - - - - - - - - - - - - - - - - - - -
The State of Minnesota,
by Hubert H. Humphrey, III,
its attorney general,
and
Blue Cross and Blue Shield
of Minnesota,
Plaintiffs,
vs. File No. C1-94-8565
Philip Morris, Incorporated, R.J.
Reynolds Tobacco Company, Brown &
Williamson Tobacco Corporation,
B.A.T. Industries P.L.C., Lorillard
Tobacco Company, The American
Tobacco Company, Liggett Group, Inc.,
The Council for Tobacco Research-U.S.A.,
Inc., and The Tobacco Institute, Inc.,
Defendants.
- - - - - - - - - - - - - - - - - - - - - - - - - - - -

DEPOSITION OF
THOMAS E. HAMM, JR., D.V.M., Ph.D.
VOLUME I
(PAGES 1 - 332)

STIREWALT & ASSOCIATES
P.O. BOX 18188, MINNEAPOLIS, MN 55418 1-800-553-1953

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

(The following is the deposition of THOMAS E. HAMM, JR., D.V.M., Ph.D., taken pursuant to notice, at the offices of Dorsey & Whitney, Pillsbury Center South, 220 South Sixth Street, Minneapolis, Minnesota, commencing at approximately 8:45 o'clock a.m., September 16, 1997.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

APPEARANCES:

On Behalf of the Plaintiffs:
Richard L. Gill
Robins, Kaplan, Miller & Ciresi LLP
Attorneys at Law
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, Minnesota 55402-2015

On Behalf of Lorillard Tobacco Company Limited:
William L. Allinder
James P. Hostetter
Vicki B. Thompson
Shook, Hardy & Bacon LLP
One Kansas City Place
1200 Main Street
Kansas City, Missouri 64105-2118

On Behalf of Lorillard Tobacco Company Limited:
Doherty, Rumble & Butler, P.A.
David G. Martin
2800 Minnesota World Trade Center
30 East Seventh Street
Saint Paul, Minnesota 55101-4999

On Behalf of The Council for Tobacco Research:
Maslon, Edelman, Borman & Brand
R. Lawrence Purdy
3300 Norwest Center
90 South Seventh Street
Minneapolis, Minnesota 55402-4140

On Behalf of The American Tobacco Company
Leonard, Street and Deinard
John W. Getsinger
Daniel P. Tschida
150 South Fifth Street
Suite 2300
Minneapolis, Minnesota 55402



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

I N D E X

Thomas E. Hamm, Jr., D.V.M., Ph.D.
Adverse Examination by Mr. Gill 5 - 330

P L A N T I F F S '
D E P O S I T I O N E X H I B I T S

3336 - Wakeham 1/7/69 memo 293
3337 - CTR 8/2/68 document 327



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THOMAS E. HAMM, JR., D.V.M., Ph.D.
called herein as a witness, being duly sworn
testified as follows:

ADVERSE EXAMINATION
BY MR. GILL:
Q. Would you state your name please?
A. My name is Thomas E. Hamm, Jr.
Q. And how are you employed, Dr. Hamm?
A. I am a professor at North Carolina State University.
Q. Do you have any other sources of income?
A. I am a consultant. I am being paid to be here today. I also consult for other organizations.
Q. Of the other organizations that you consult for or have consulted for in the last twelve months have some of them provided sources of income?
A. Yes, they have.
Q. Can you tell me what those are please?
A. Basically -- you're saying the last twelve months?
MR. ALLINDER: You're asking him to name them?
BY MR. GILL:
Q. Yes.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. It's the National Cancer Institute and the National Institute of Environmental Health Sciences and a company -- well, that company didn't pay me. I did some free consulting for a company called Genesis.
Q. The two other companies that you just mentioned that are paying you for consulting services, those are in the case of NCI, that would be a governmental agency?
A. That's correct.
Q. And the other agency?
A. That is also governmental. They are both branches of the National Institute of Health. I have turned down other consulting just because of time constraints. I have a limited amount of time I can consult.
Q. For how long have you been a consultant to Shook, Hardy & Bacon?
A. Since 1992.
Q. Have you been a consultant for that law firm each year since then?
A. Yes.
Q. How did that arise?
A. Very late in 1991 a company called Wash. Tech. in Washington D.C. called me and asked me if I was



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

interested in being a consultant.

I said I would be interested and they said would you come to Washington and meet with some people and I did. And that was early in 1992 if my memory serves me, very early in 1992.

The people I met at that time were from Shook, Hardy & Bacon and I've been consulting with them since that time.

Q. Was Wash. Tech. a firm that you had known prior to receiving this telephone contact?

A. I know absolutely nothing about Wash. Tech. I have never heard about them before. I know absolutely nothing about them.

Q. Did you attempt to learn during this initial telephone contact from Wash. Tech. how in the world this company had decided to contact you about some consultant services?

A. No. I had liked to know that, in fact, but I never asked in this case that question.

Q. You didn't ask the caller?

A. No. At the time I didn't think of it or I might have asked. Since then I've sort of wondered why they picked me.

Q. How long did that initial telephone call from Wash. Tech. last approximately?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. I have no memory of that. I would assume it was fairly short. I was at Stanford University at the time and I was a consultant at that time, and it was common for people to call me to ask me if I wanted to be a consultant. And I would look into it and if it was something I wanted to do I would do it.

I don't remember -- I have almost no memory of my contact with Wash. Tech.

Q. You were a full-time professor at Stanford at the time of this call?

A. That's correct.

Q. And teaching what courses?

A. I didn't teach any courses at Stanford. I teach courses where I am now. But I was the director of laboratory animal resources at Stanford so I didn't teach any specific course. I did research and I was responsible for the animal facility.

Q. So to follow up on this offer of a possible consulting position, you were going to have to travel from the west coast to Washington D C; is that correct?

A. That's correct.

Q. Now, did you get it clear in your head that this Wash. Tech. organization was some type of a head hunter organization?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. As I said earlier, I really have no knowledge of what Wash. Tech. was, what it was, what it is now.

Other than this phone call inviting me to come meet with some people to talk about consulting, I know absolutely nothing about Wash. Tech.

Q. Who else were you consulting for on a paid basis at that time in 1991 while working at Stanford?

A. We submitted a copy of my CV and I've attempted to put everything on there that I can remember, so at the time I probably was consulting for the National Cancer Institute because I have consulted with them for many years.

Other aspects of the National Institute of Health, some small companies in the bay area. I used to consult designing facilities for companies.

So -- but I can't tell you exactly at that time, but they would be in my CV.

Q. Did you attempt to find out from Wash. Tech. whether this consulting work would be for any agency of the US government or whether it would be for some private purpose?

A. They told me it was a private organization and that's all they told me at that time as I remember. They had a client who wanted to meet with me to discuss if I would become a consultant.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

That's all I remember and I'm not certain that's accurate, but that's how I remember it.
Q. Naturally during the course of your deposition, Dr. Hamm, just give us your best recollection, and if any of my questions aren't clear, will you let me know so I can rephrase it?
A. I will.
Q. If you don't, I will assume you understand the question; is that fair?
A. That's fair.
Q. Let me try to summarize what I think you've told me about this conversation with Wash. Tech. Wash. Tech. had a client that was in a private industry that wanted to meet with you for the purpose of possibly retaining you as a consultant, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Yes.
BY MR. GILL:
Q. And you didn't find out who the client was?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Who the client at Wash. Tech. was?
MR. ALLINDER: Same objection.
THE WITNESS: I don't exactly know what you're asking me. When Wash. Tech. contacted me



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

they did not tell me who the client was and I did not ask them who the client was.
BY MR. GILL:
Q. But they did ask you to take a plane trip across the country?
A. That's correct.
Q. And you had never heard of Wash. Tech?
A. That's correct.
Q. And you didn't find out the nature of their organization during the telephone call?
A. As best I can recall it I did not.
Q. But you agreed to get on an airplane and fly to Washington?
A. That's correct.
Q. And you did so?
A. That's correct.
Q. Did you ever meet anybody from Wash. Tech. when you arrived in Washington in connection with this consultant work?
A. I met two individuals, the receptionist who I can't remember very well -- well, I can't remember either of them very well.
I met one individual who I don't remember his name at all who basically met me, welcomed me to Washington, escorted me down to a room and introduced

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

me to the people from Shook, Hardy & Bacon, and then I think he left, but I don't remember for certain whether he stayed or not. But as I remember he left.

Then I met with him after the meeting for a short period of time to say goodbye and that was about my only contact with Wash. Tech.

Q. But this meeting occurred at the offices of Wash. Tech?

A. Yes.

Q. I take it that when you arrived that morning for the meeting you still had no idea of the nature of any of the consulting work that might be offered to you?

A. That's correct.

Q. Had you inquired from Wash. Tech. during the initial telephone call what you might be paid for these services if, in fact, the arrangements were made?

A. No. I had discussed with Wash. Tech. what my fee would be to come to Washington and participate in this meeting.

I had not discussed any fees which is common because generally when someone hires you as a consultant then you discuss your fees with them.

Q. So you indicated to Wash. Tech. what your fee



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

would be to make the trip to Washington and spend the time with whoever it was that wanted to talk to you about whatever it was they wanted to talk to you about?
A. That's correct.
Q. And in addition to the fees I take it you required that Wash. Tech. pay for all your expenses connected with this trip?
A. That's correct.
Q. How much did you ask Wash. Tech. to pay you above and beyond your expenses to come to Washington for this meeting?
A. I honestly don't remember.
Q. Can you put it within a range?
MR. ALLINDER: Object to the form.
THE WITNESS: I honestly don't have any idea. If it's important, I could perhaps find records of it and look it up, but I honestly don't remember what I charged.
I at that time, as well as now, have a limited amount of time to consult, so generally I would have a standard fee, but I honestly don't remember what I charged.
BY MR. GILL:
Q. Do you remember whether it was more or less than

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

one thousand dollars?
MR. ALLINDER: Object to the form.
THE WITNESS: I honestly don't remember. I couldn't tell you. I honestly don't remember what I charged them.
BY MR. GILL:
Q. How long did this meeting from attorneys with Shook, Hardy & Bacon last?
A. I don't remember that either. I would guess that it was approximately an hour or an hour and a half, but -- it was somewhere in that range.
Q. By the time the meeting was over had you agreed to be a consultant for Shook, Hardy & Bacon?
A. My memory is that yes, I had agreed at that point.
Q. Did you have any idea by the end of the meeting what you would be consulting about?
A. Of course I did or I wouldn't have agreed to do it.
Q. What was your understanding of the nature of the consulting work?
A. At that point what they wanted me to do was review scientific articles and give them my opinion of them.
Q. Did you have any understanding as to the nature



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

of the scientific articles that would be submitted to you for review?

A. I don't remember -- I'm hedging because I don't really remember this meeting very well. It wasn't that significant to me, but what I'm thinking is that we must have discussed the type of articles they would be, and it must have been something that I knew I had the expertise to be of value to them or I wouldn't have agreed to do it.

So -- and what generally people ask me to review are animal models and how laboratory animals are used in research.

But I don't remember specifically anything that was discussed at that meeting, but it must have been what happened or I wouldn't have agreed to do it, so --

Q. When you agreed to be a consultant for Shook, Hardy & Bacon did you have any understanding whether you would be working strictly on behalf of the interests of that law firm or whether any of the law firms' clients would have some interest in the consulting work you would be doing?

MR. ALLINDER: Object to the form.

THE WITNESS: I'm not certain what you're asking me, but as an expert consultant it



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

doesn't matter to me who is my sponsor or who is my client because I'm being hired to give my opinion of an article, and I'll give the same opinion regardless of who the client is or who the sponsor is. That's what I'm being hired to do.
Is that what you're asking?
BY MR. GILL:
Q. I appreciate your comment, but what I wanted to know is whether you had any understanding of whether the work that you would be doing was just in the interest of Shook, Hardy & Bacon or whether it had any connection to any of its clients.
MR. ALLINDER: Object to the form.
MR. PURDY: I'm going to object as being asked and answered too.
THE WITNESS: I'm sort of back to my previous answer as it wouldn't have -- when I'm consulting with somebody, I don't really -- assuming they were lawyers, I assumed that it was on behalf of their client.
BY MR. GILL:
Q. You assumed that the law firm itself didn't specifically have any direct interest in animal research?
MR. ALLINDER: Object to the form.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: I don't think I sat and thought about it either way. I was being hired to comment on scientific articles and that was what I was planning to do.
BY MR. GILL:
Q. And you didn't give any thought to whether or not any of the firms' clients might actually be retaining the firm to retain you?
MR. ALLINDER: Object to the form.
THE WITNESS: That once again didn't matter to me. I'm being hired to review articles so I'm going to review them.
BY MR. GILL:
Q. Apparently my question wasn't quite clear, Dr. Hamm. Totally aside from what matters to you, the question was, did you assume, whether it mattered or not, that you would be doing this consulting work as a result of some client of the firm retaining the firm to retain you?
MR. ALLINDER: Object to the form.
THE WITNESS: It's probably our semantics why we can't agree on it. To me it didn't matter so I didn't make any assumptions.
BY MR. GILL:
Q. You didn't make any assumptions?

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. I don't remember asking them or them telling me who the client was, nor did I care.
Q. Have you ever learned since 1992 which clients of Shook, Hardy & Bacon asked the law firm to retain you?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know, in fact, whether Wash. Tech. selected me, whether Shook, Hardy & Bacon selected me or whether the client selected me. I have no knowledge of who selected me or why.
BY MR. GILL:
Q. I'm not referring to the initial selection back in 1992, but as your consulting work progressed since that date have you ever become aware of any clients of Shook, Hardy & Bacon that retained the law firm to retain you?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm going to give the same answer. The end of your question sounds like you're asking me who retained me, and I don't know who -- it may have been Wash. Tech. that selected me for all I know.
BY MR. GILL:
Q. Thank you. I agree that last question was confusing. As things have progressed since 1992 have



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

you ever become aware of any client of Shook, Hardy & Bacon that has been paying for your consulting services?
A. As far as I know Shook, Hardy & Bacon is paying for my consulting services. I don't know to whom if anyone they bill that to. I have noticed as I've come to these depositions -- for instance, today Shook, Hardy is representing Lorillard.
So I've noticed as we come to depositions and so forth that they're representing various tobacco companies.
Q. So you've noticed that lately the work that you've been doing of a consulting nature for Shook, Hardy seems to have some involvement with tobacco companies?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Is that correct?
MR. ALLINDER: Same objection.
THE WITNESS: I would say yes. I mean today we're here and they're representing Lorillard, so --
BY MR. GILL:
Q. And as I understand it, during your consulting work for Shook, Hardy & Bacon you've been deposed a

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

number of times prior to today?
A. Twice prior to today.
Q. Were those in cases that -- were those in lawsuits that involved tobacco companies?
A. They were.
Q. Was Shook, Hardy & Bacon representing one or more of the tobacco companies in those cases?
A. They were representing the tobacco -- a tobacco company.
Q. And approximately what point in time between 1992 and 1997 did you become aware that any of the work that you were doing for Shook, Hardy & Bacon might have some interest to any of their tobacco company clients?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Might be of some interest to any of their tobacco company clients.
MR. ALLINDER: Object to the form.
THE WITNESS: I'm certain that the meeting -- the original meeting where we got together in 1992 to discuss what I was going to do, I knew then it had something to do with tobacco because they asked me things about tobacco, my views on tobacco and so forth.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

I honestly don't know if I knew at that time which side they were on, nor did I care. I didn't know if they were pro or anti tobacco I don't believe at the 1992 meeting, but I'm not certain of that.

I don't know where along the way if ever -- I haven't viewed it as an important aspect. As a scientist I'm asked to review the arms and I review them irregardless of who the sponsor is or who's paying me. That's what they're paying me to do.

BY MR. GILL:

Q. But you did learn at the --

A. It had something to do with tobacco.

MR. ALLINDER: You need him to finish his question.

THE WITNESS: Sorry.

BY MR. GILL:

Q. So you found out first of all that the articles you were going to be reviewing would have some connection to tobacco?

A. Yes. The articles I was -- I don't know if the '92 -- because none of the articles were presented to me per se at that time.

But as soon as articles were presented to me, the majority of them had something to do with animals



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

and tobacco.
Q. And you understood that Shook, Hardy & Bacon as a law firm had some interest in tobacco issues?
MR. ALLINDER: Object to the form.
THE WITNESS: Other than my meeting with them, I have no other knowledge of them.
BY MR. GILL:
Q. Based upon the meeting with Shook, Hardy & Bacon you came to understand that that law firm had some professional interest with respect to tobacco related issues, true?
A. I think that's correct, yeah.
Q. But you're indicating that at the time of the meeting you couldn't glean what the position of Shook, Hardy & Bacon was with respect to tobacco related issues; is that what you're saying?
A. I can't remember. I've tried because other people have asked me similar questions. I've tried to remember that meeting. I don't have a very good memory of it partially because it didn't matter to me.
I was being hired to review articles that didn't matter to me. It didn't matter to me who was hiring me in a sense.
I was going to review the articles and give them



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

my opinion. That's all the further I took it at that point.
Q. I take it you knew prior to the time of this meeting that lawyers tend to be advocates on behalf of their clients?
A. I believe that's why lawyers are hired, yes.
Q. Lawyers don't normally try to come into a situation as some type of a neutral like an umpire or referee, true?
MR. PURDY: Object to the form.
THE WITNESS: That's my understanding of it.
BY MR. GILL:
Q. So you recalled at the time of this meeting with Shook, Hardy & Bacon back in 1992 that this law firm had an interest on one side or the other of tobacco related issues, but you simply couldn't fathom what side; is that what you're saying?
MR. ALLINDER: Object to the form.
THE WITNESS: I can't remember the meeting well enough to be certain that what you just asked or what I'm going to say is absolutely correct, but I don't remember -- I don't remember that I knew at that point which side they were on, nor did it make any difference to me.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Now, recognizing that it apparently doesn't make any difference to you did you at some point in time gain an understanding of which side of tobacco related issues the law firm of Shook, Hardy & Bacon was on?
MR. ALLINDER: Object to the form.
THE WITNESS: I have, of course, figured that out. I can't tell you exactly when.
I'm certain at the point when I was asked if I would be willing to testify or to participate in depositions and so forth that -- and I saw that Shook, Hardy was representing one of the tobacco companies at that time. It was very apparent.
At what point in between '92 and that point I figured it out, I'm not certain, but I assume it was earlier than that because I met with them and talked with them and so forth.
But I don't remember and nor did I before the depositions know or getting ready for the depositions did I know which if any companies they represented and so forth because I never asked.
BY MR. GILL:
Q. Now, this point in time where the consulting arrangement changed into one which you would be



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

preparing to testify, that arose sometime around January 1 of 1997; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm not certain the exact date, but that's when I started doing a lot more work of this nature was around that time.
BY MR. GILL:
Q. I'm not trying to tie you down, Dr. Hamm, to some hair splitting specific date where you knew that, but I'm trying to get an idea of the approximate time frame in the evolution of your consulting work.
Do I understand correctly that it was sometime right around the 1st of January of 1997 give or take a month?
MR. ALLINDER: Excuse me. Object to the form. That what happened?
BY MR. GILL:
Q. That you began to shift from simply reviewing articles and providing interpretation to reviewing documents to prepare to testify --
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. -- in lawsuits?
MR. ALLINDER: Same objection.



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: You said that you weren't going to tie me down, but you're trying to tie me down to plus or minus a month, and I would have to look at my records to give you plus or minus a month.
BY MR. GILL:
Q. And part of this, Dr. Hamm, is simply to test the nature of your memory. Some folks have a reasonably good memory and others of us can hardly remember a thing, and I'm just trying to get an idea of where you might fall within that mix of individuals.
So are you telling me that you just don't have much of a clue at all as to when this change transpired?
MR. ALLINDER: Object to the form. Move to strike everything, but the question.
THE WITNESS: I wouldn't say that I have a clue at all. If you're going to tie me down to a specific time, I would prefer to look at my records so I can give you a more specific answer.
On this issue I don't have a very great memory because it isn't a real high relevance to me. Other areas I may have a better memory, so --
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. Are you able to give me any estimation at all as to when this change in the relationship occurred?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. If you can do it by way of a year, if you can do it by way of a month or any other time frame, a decade?
MR. ALLINDER: Object to the form.
THE WITNESS: I can't use a decade because I started in '92, but I started to do significantly more work in starting about '96, and it increased more and more as we have moved to this point today.
BY MR. GILL:
Q. Can you recall approximately when in '96 you began to do significantly more work?
A. I would say earlier in the year.
MR. ALLINDER: Doctor, you need to let him finish and he will let you finish and the Court Reporter will be most pleased with you.
THE WITNESS: I'm sorry. I'll try.
BY MR. GILL:
Q. So sometime early in 1996 your best estimate is that you began to do significantly more work for Shook, Hardy & Bacon?



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: That's correct.
BY MR. GILL:
Q. Was that work related to lawsuits as far as you understood it?
A. I can't remember. I honestly can't remember when they asked me if I would be willing to participate in the lawsuits, but that was somewhere middle, late, 1996, but the amount of work that I did increased significantly.
I was reviewing many more documents and so forth, but I honestly do not remember when I was asked if I would participate in the lawsuit.
Q. That helps. As I understand it, in the early years of your consulting work you were given relatively few documents to review and comment on; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I did less work at that time and I reviewed fewer documents at that time, but I don't really know what -- if that's the answer -- if that's the answer you're after. That's the best I can do.
BY MR. GILL:
Q. It's not that I'm after a specific answer, Dr.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Hamm. I'm just trying to find out what you recall.
In the early years of your consulting work by your standards, were you reviewing a lot of documents and commenting on them like fifty or a hundred of them a year or were you only reviewing a few, a dozen or less in a year?
A. I would have to look at my records to give you any kind of numbers of documents, but I was reviewing ten to fifty documents a year in '92, and that went on until about '96 when the number of documents increased quite a bit.
Q. And these ten to fifty documents that you reviewed in each year in '92, '93, '94 and '95, these were all documents that -- or articles that were somewhere within what you regarded as your field of expertise, true?
MR. ALLINDER: Object to the form.
THE WITNESS: That's correct.
BY MR. GILL:
Q. And as I understand it, you would receive a visit every so often from attorneys at Shook, Hardy & Bacon to discuss your views on the articles that you had been asked to review; is that correct?
MR. ALLINDER: Object to the form.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. And how often per year would these meetings occur in the 1992 to 1995 time frame?
A. I don't remember precisely, but it was around three or four times a year.
Q. So approximately quarterly you would receive a visit from Shook, Hardy & Bacon?
A. Approximately.
Q. And would they travel to either Stanford or North Carolina for these visits or would you come to meet with them at their office?
A. All the visits they came to see me.
Q. These visits would usually involve meetings that would last a half day or so?
A. From a half to a whole day. Excuse me. Let me correct that. Sometimes the meetings were much shorter than that, depending on the amount of things that I had looked at.
Q. But I take it typically they weren't traveling to North Carolina or Stanford for a thirty minute meeting with you.
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know. They may have had other reasons to be -- you know, I don't know what they did before they saw me or after they saw me.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. It isn't your recollection that -- is it your recollection that the meetings tended to last a half day or a full day?
MR. ALLINDER: Object to the form. Asked and answered.
THE WITNESS: It's difficult for me to remember, but I would guess half a day is the longest they lasted and I say up to a day because they may have lasted that long, but the majority of the time they were half a day or less.
BY MR. GILL:
Q. Half a day, we're talking four hours or so, something in that time frame?
A. Generally we ate lunch and talked about the articles that I've looked at. So they generally were mid day and they generally were a few hours.
Q. Did the meetings typically involve simply having lunch somewhere and chatting over lunch and then they would leave?
MR. PURDY: Object to the form.
THE WITNESS: No. We discussed the articles that I had been asked to look at sometimes in great depth.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. Would you be discussing the articles that you were asked to look at over lunch or in some kind of a formal meeting?
A. We did both.
Q. So you would meet in the conference room and then continue the discussion over lunch or perhaps start with lunch, have a discussion and continue that discussion in a conference room after lunch?
MR. ALLINDER: Object to the form.
THE WITNESS: That's basically what we did.
BY MR. GILL:
Q. And this simply continued on in the fashion that you've just described with the frequency that you've described between 1992 through the end of '95?
A. Without looking at my records, that's my memory, yes.
Q. And during that time frame did there ever come a point where you came to an understanding of which side of tobacco related issues Shook, Hardy & Bacon was on?
MR. ALLINDER: Objection to the form. Asked and answered.
THE WITNESS: I assume at some point that must have been -- we didn't discuss it, I didn't



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

ask.

I really didn't care in a sense because I was being paid to interpret the articles and it didn't matter who they represented.

I do a lot of consulting and that's what I'm paid to do, and I don't change my answer based on who the sponsor is so I don't really worry about who the sponsor is.

If I'm interested in doing the review, I do the review and that's what I'm paid for.

BY MR. GILL:

Q. Have you ever been paid for any other consulting work that involved litigation prior to the work that you've done in these tobacco cases?

A. My answer -- simple answer would be no, but my better answer may be I don't think so because I don't know in what way things that I have done or said or produced have been used for sure.

But in -- but this is the only time I've done it I think where I know that it is -- has led directly to some kind of litigation.

Q. Now at any time between your initial agreement to consult in 1992 and say the end of 1995 did you become aware that there were a number of lawsuits in progress in which certain states in the union had



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

sued the tobacco companies, states like Florida, Mississippi, Minnesota?
MR. ALLINDER: Objection. Prior to '96?
MR. GILL: Sometime between '92 and the end of '95.
MR. ALLINDER: Object to the form.
THE WITNESS: I do not think that we ever discussed any lawsuit.
BY MR. GILL:
Q. That wasn't my question, Dr. Hamm. Did you ever become aware of the existence of such lawsuits between 1992 and 1995?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think so. We only -- the only knowledge I had of the lawsuits prior to specifically the lawyers from Shook, Hardy & Bacon talking to me about them was something I would have seen in the press, and I didn't pay very much attention to the lawsuits. If they were going on between '92 and '95, I have really no memory of them.
BY MR. GILL:
Q. All right. Assuming these meetings were occurring on approximately a quarterly basis and that they involved three or four hours' duration,

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

obviously you would have had to prepare for the meetings, correct?
A. That's correct.
Q. And I take it some number of hours would be involved in getting ready to meet these attorneys from Shook, Hardy & Bacon when they came to town to ask you for your comments on these articles that they had asked you to review, correct?
A. That's correct.
Q. And you would usually be reviewing somewhere between ten and fifty is your best estimate on an annual basis?
MR. ALLINDER: Object to the form. Asked and answered.
THE WITNESS: That's my best recollection of it.
BY MR. GILL:
Q. So approximately how many hours were you devoting to this consulting work on an annual basis between 1952 -- excuse me. 1992 and 1995?
MR. ALLINDER: Hang on a second before you answer, Doctor. Go ahead.
THE WITNESS: I would have to look at my records. Between '92 and '95 I was only being paid for a few hours a month, but I have billing



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

records that if I could look at them I could give you more specific information.

It depended on the number of articles I had and the complexity of them and so forth, how much time I had to spend, and it also depended on how many articles I might have to get to try to understand them and so forth.

But '92 to '95 the number of hours were relatively few.

BY MR. GILL:

Q. What do you mean by relatively few when you use that term on a monthly basis? I think you said you were billed -- you billed for only a few hours per month during that time frame.

A. That's my recollection. I have specific records that I could be more accurate.

Q. I understand. But just tell me what you mean when you use a term like a few hours a month; what range would you attach to the term few?

A. My recollection is it was fewer than ten hours a month.

Q. But most likely greater than five hours a month?

MR. ALLINDER: Object to the form. Asked and answered.



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: I don't have a real accurate recollection, but somewhere in that range.
BY MR. GILL:
Q. And during that time frame approximately how many hours a year were you devoting your consulting work for agencies of the US government?
A. That's more difficult to come up with because the government only pays you a slight fee for the one day you're there, and you don't keep track of how many hours you spend getting prepared for those meetings. Sometimes it's substantial.
But I have no records of that. My CV includes all the consulting that I can think of that I have ever done. It's in my CV.
There may be a few I forgot to put in there, but I think they're all there. But the government ones we don't keep any hours for so I can't give you a very good estimate of that.
Q. Given the fact that you're probably the best person in the world to be able to estimate this, even if your estimate is not exact, other than the work for Shook, Hardy & Bacon what were the approximate number of consulting hours that you were devoting to other consulting work on an annual basis between '92 and '95?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form. In this question are you including or excluding NCI?
BY MR. GILL:
Q. I am including every type of consulting work for which you were paid other than the Shook, Hardy & Bacon work.
A. I would guess that again -- I don't have a real firm recollection, but my estimate of it would be about the same of ten -- five to ten hours a month for the other -- it may be higher than that as I've said because it's even harder for me to estimate because the government ones particularly, we don't keep track of hours.
Q. Now, when you went from a full-time job at Stanford to the University of North Carolina -- I assume you went to another full-time job there.
MR. ALLINDER: Objection. North Carolina State.
BY MR. GILL:
Q. I'm sorry. North Carolina State.
A. Those two schools are real competitive.
Q. I apologize, Dr. Hamm. It wasn't intentional. I recognize the folks back home are not likely to make the same mistake I did.
You did have a full-time job at Stanford?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. That's correct.
Q. And when you left Stanford you went to North Carolina State?
A. That's correct.
Q. What year was that again?
A. 1992.
Q. And that would be for the fall semester of '92?
A. Yes.
Q. And your position as -- are you a full-time professor at North Carolina State?
A. Yes.
Q. And being a full-time professor is a full-time job, correct?
A. Yes.
Q. Now --
A. Let me say though that part of a full-time professor's job is we're all allowed to consult varying on which organization you're at.
There are rules that each organization has about how much time, but professors are encouraged to consult so that the information that we have can be made available.
So each organization I belong to has more or less encouraged me to be a consultant as well.
Q. How much consulting work on an annual basis did



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Stanford encourage you to undertake?
A. Well, Stanford had a very open policy and probably encourages faculty to consult more than any organization.
It -- the policy basically was if you get your regular job done, we don't care how many other things you do.
Q. Even if the other consulting work might take a hundred or twenty-three hundred hours a month to perform; there are no limits as far as you understood Stanford's policy?
A. As long as you are using your free time and you are getting your regular job done then they had no problems with that.
Q. So as you understood it even though Stanford was paying you as a full-time employee, as far as Stanford was concerned you might spend more time consulting than you spent working at Stanford as long as you got your Stanford work done; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's basically how I believe Stanford viewed consulting.
BY MR. GILL:
Q. And what's your view of how North Carolina State views consulting work?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

A. North Carolina State gives you two days a month to consult, plus if you want to consult in your free time that's your business.

So -- and your two days of consulting, you're supposed to not conflict with your regular job if you can help it.

Q. The two days that North Carolina State gives a full-time professor to consult might be school days in other words?

A. Mm-hmm. Those are two days of regular work days; you're allowed to sign off two regular work days as consulting.

I haven't attempted it because I've been doing my consulting in my free time. It is maybe -- I don't know the whole policy. It could be I could go in and ask for more time if I wanted to, and if it were approved then that would be official too.

I have to as a consultant file a form that says what I am planning to do, whom I'm planning to work for, and that has to be approved, how many hours and how I can avoid affecting my regular job and then that is approved.

Q. And how often is such a form filed?

A. It's supposed to be yearly.

Q. Have you been filing that form yearly at North



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Carolina State?
A. I've been filing it more frequently than yearly.
Q. With whom do you file this form?
A. My -- it goes through -- the signatures on it are my department chair and my dean. It may go further up the university, but I don't know about that.
Q. Which school?
A. I'm at the College of Veterinary Medicine.
Q. Did you file a form for the school year that has just started now in September or maybe it started in August?
A. Yes, I did. I think we filed a form in July, but -- we're on a fiscal year of July 1 to -- and I think that's when I filed the latest form.
Q. And what did you indicate on your latest form with respect to the extent of the consulting work that you plan to be doing during this next school year, this current school year?
A. Again, I would have to look at it. I believe I said I would be consulting perhaps as much as several hundred hours a month.
Q. Doing what?
A. Working for Shook, Hardy & Bacon.
Q. How many hours do you devote to your classroom



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

duties at North Carolina State; how many classes do you teach per semester?
A. Currently I teach the ethics course and I have to -- it meets twice a week for the semester. I also teach about -- I teach the beginning part of the special species course.
I teach the diseases of rabbits and rodents and that's about a total of about eight lectures. It varies each semester.
So next semester I'll be teaching the ethics course to the graduate students and residents, and that will meet I think once a week for a semester.
Q. And when the ethics course meets twice a week during this fall semester, is that a one hour class?
A. Yes.
Q. When you say "ethics," would these be -- would this be veterinary ethics?
A. It's professional ethics and we get into -- it varies whether I'm teaching the veterinary students or I'm teaching the graduate students in all the topics we get into.
Q. What type of professional ethics might you be teaching to graduate students?
A. Do you mean in general or you want specific lectures or --

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. No. In general, Doctor. In other words, would you be teaching ethics from the perspective of business, from the perspective of law, from the perspective of medicine or all of the above and more?
A. It kind of -- it's hard to characterize by discipline. It's more what are the professional ethics you would have to follow to be an upstanding scientist.
So we get into plagiarism, how to collect data, how to transmit the data to a paper ethically, those kinds of issues, how to use correspondence officially, how to use the name of your university officially, those kinds of things.
Q. Ethics in the field of science then?
A. It's directed towards individuals who will be researchers. I teach a few other courses as well. I teach journal club and board certification to resident laboratory animal veterinarians.
Q. How much time does that take?
A. That takes about half a day a week.
Q. Now, in the form that you filed this summer for the current school year with regard to your consulting duties, did you indicate that you would be doing any consulting for the US government or any of its agencies?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. In general universities exempt that from approval because they are trying to encourage you to do even more of that.

The government pays so little and it's such a lot of work that they have difficulty getting scientists to do that.

So the university in general I wouldn't say exempts, but the requirement to have that preapproved is much less.

Q. So did you make any representations on this year's form with respect to consulting work you would be doing for the US government or its agencies?

MR. ALLINDER: Object to the form.

THE WITNESS: That's difficult to do because those are -- they'll call me. I don't know today what if any consulting I'll do for them. In fact, I may turn some of them down because I don't have time.

BY MR. GILL:

Q. All I'm trying to ask --

A. So I can't pre-approve it. I'm sorry.

Q. I'm just asking whether or not to your recollection you made any reference on this year's form to doing any consulting work for the US government or its agency totally aside from whether



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

you needed to put it down or whether it might come up or whether you actually referenced it in any way on the form itself.
A. The only thing you can put on the form are those consultancies which are already officially in progress.
Q. And so are you telling me that at the time that you filled out the form this summer for the current school year there were no other consulting positions for the you in progress other than the Shook, Hardy & Bacon position?
A. None that -- the government ones that will still ask me, I will have to decide whether or not to do or not, but I don't know at this point how many of those there will be.
They put these committees together one at a time as they get ready to do one of their reviews.
Q. I take it when you filled out the form in the summer there was no government consulting work that was then in progress for you?
A. Unless the form is filled out exactly at the time you've accepted one of these that will never been the case.
So at the time I filled out the form, none of these were in progress, so I did not put them on the

http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

form.
Q. When you say "none of these," you're talking about government work?
A. That's correct.
Q. And since you filled out the form in the summer up to September 16, today's date, have you taken on any consulting work for the US government?
A. I've been asked to take one and I've turned it down because I did not have adequate time to do it.
Q. Now, in addition to the Shook, Hardy & Bacon consulting work that you've referenced on this year's form is there any other consulting work what you've referenced on this year's form?
A. No. The amount of work that I'm doing now for Shook, Hardy & Bacon makes it almost impossible for me to do any other consulting at this point in time.
Q. And are you indicating that your immediate supervisor and the dean of the College of Veterinary Sciences had no problem with the fact that you would be spending a few hundred hours per month doing consulting work for Shook, Hardy & Bacon during this current school year?
MR. ALLINDER: Object to the form.
THE WITNESS: None that I know of and since most of it is my free time I would have a real



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

objection if they had an objection.
BY MR. GILL:
Q. So nobody's brought any objections to your attention is what you're saying?
A. No.
Q. And on the form do you indicate the consulting fees that you would be charging Shook, Hardy & Bacon?
MR. ALLINDER: Object to the form. Dick, I think we have reached the point here where we're starting to go beyond what we're permitted in the protocol.
So on the basis of protocol, that is a question you need not answer.
MR. GILL: This question only goes to whether he indicates it or not. I'm not going to ask him what it is. I just want to know whether or not it's on the form.
MR. ALLINDER: Fair question. Do you understand that?
THE WITNESS: Yes.
MR. ALLINDER: Is the information on the form --
THE WITNESS: I do not believe that that's on the form.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Now, is it your understanding that one of the reasons to submit this form is for your superiors at North Carolina State to determine whether any consulting work you might wish to undertake could involve a conflict of interest with your position as a full-time professor at that university?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think it's a question of conflict of interest, it's a question of conflict of time.
So I would assume when reviewing these, that would be the question I would ask, is this person doing his real job, and if he is, I wouldn't have any problem with it.
BY MR. GILL:
Q. Well, at some point a conflict of time would become a conflict of interest, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Not in my mind. I guess there are ways you could get to that, but it -- the two are quite different to me.
BY MR. GILL:
Q. So your understanding of the reason to submit the form, to even go through the exercise of creating



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

the paperwork in submitting is to give your superiors an opportunity to see whether there might be a conflict with respect to time allocation; is that correct?
MR. ALLINDER: Object to the form. Asked and answered.
THE WITNESS: I should get the form out and read it more carefully. I wasn't planning to be examined on this.
It may be the form has other reasons. I really don't know. I always viewed it that the dean wants to know what we're doing so he can decide whether you're spending too much time on it.
BY MR. GILL:
Q. Again, what the form might or might not say is it your understanding that the reason for the exercise is to give your superiors an opportunity to determine if your outside work may create a conflict with respect to allocation of time?
MR. ALLINDER: Object to the form. Asked and answered.
THE WITNESS: I don't know how else to answer the question. I thought my last answer was my view of it as -- I thought I was clarifying that I don't really know what in the heck the form is for,

http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

but my view of it is they're trying to see what all the things we're doing so they can determine if we're doing things and not doing our primary job.

BY MR. GILL:

Q. To try to determine if there is some conflict with respect to time allocation, true?

MR. ALLINDER: Object to the form.

THE WITNESS: I basically would agree with that.

BY MR. GILL:

Q. But from your perspective such a conflict could never arise, correct?

MR. ALLINDER: Object to the form.

THE WITNESS: Well, never for a scientist is a difficult term, so I can't say. Almost anything will never occur.

BY MR. GILL:

Q. All right. Given the fact that you recognize that a conflict with respect to time allocation could potentially occur, can you give me an idea of how many hours on a monthly basis of consulting work would you have to perform before you would have some concerns about your abilities to discharge your other duties at North Carolina State?

A. Well, that's exactly what I have to decide when



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

I do consulting; I have to decide, do I have the time to do these things and do my regular job.
Q. And since I have --
A. So I make those decisions all the time.
Q. And since I have no idea, Dr. Hamm, how many, how much sleep per night you may need, what your other time commitments are, can you just tell me what is the limit in your mind as to how many monthly hours of consulting work you can perform and still discharge your duties at North Carolina State?
MR. ALLINDER: Object to the form.
THE WITNESS: I have a tremendous amount of free time and if I choose to use it in something I find interesting, the number is a very large number.
So if you use nights and weekends, you can do a tremendous amount of consulting.
BY MR. GILL:
Q. And recognizing all of what you just said would the number then for Dr. Thomas Hamm be a number like five hundred hours a month? Is that something that you could accomplish within your free time and the time the university makes available to you and still perform and discharge your duties at the university?
MR. ALLINDER: Object to the form.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: I haven't calculated that number. I don't know what it is and I currently am not doing other consulting simply because I don't want to do more hours. But I can't give you a number of what is the limit.
BY MR. GILL:
Q. But in your mind have you reached your limit right now with respect to the monthly hours that you're devoting to your consulting work for Shook, Hardy & Bacon?
A. I don't think so.
Q. And the hours that you are currently devoting to your consulting work with Shook, Hardy & Bacon would be in the area of three hundred hours per month?
MR. ALLINDER: Object to the form.
THE WITNESS: I think it's less than that.
BY MR. GILL:
Q. Two-fifty?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm trying to think. It's terrible because I have records of this and I do it every month, but I can't off the top of my head give you a number. But it's probably a hundred and fifty, two hundred hours a month.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

I could give you an exact number if I could look at my records.
BY MR. GILL:
Q. But the form you filed with the dean of the School of Veterinary Sciences that indicated several hundred hours per month would be your estimate as of last summer?
A. Mm-hmm. The form is an estimate and then we also have to file a form at the end of the year that says actual how many we did, and I believe on the form, although I would have to look at the form to be certain, I put something like a hundred and fifty to two hundred a month on the form.
What I did was I looked at my actual billings and I put a number on the form that corresponded to that, my best estimate.
So it's better -- the form and my billings are a better estimate of my actual number than my recollection today.
Q. So the number you put on the form in the summer was based upon your experience over several months prior to that time?
MR. ALLINDER: Object to the form.
THE WITNESS: I --
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. Is that correct?
A. I believe that's correct. I also think I'm correct in telling you that I have to tell them at the end of the year the actual number as well.
But now that I think about it, I'm not certain of that, but my recollection is that I have to tell them -- they have to look at the actual to see how much I'm projecting.
Q. Now, before you agreed to be a consultant for Shook, Hardy with respect to lawsuits, as I understand it, there was some significant increase in the number of articles that you had been asked to comment about?
MR. ALLINDER: Object to the form.
THE WITNESS: There had been an increase in the number of articles and there also was an increase in the number of additional articles that I was requesting to look at.
BY MR. GILL:
Q. Before anybody broached you on the issue of whether you might be a witness in lawsuits?
MR. ALLINDER: Object to the form.
THE WITNESS: I believe that's correct.
BY MR. GILL:
Q. And when that occurred or as it was occurring



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

did you come to any understanding in your mind as to why this increased level of activity was occurring?
A. It seems embarrassing to admit this, but I don't think I questioned it. Someone may have asked me if I could do more and I said yes, and I did more.
I don't remember. I assumed they needed more information.
Q. And you were perfectly willing to do more?
A. I was perfectly willing to do more.
Q. You had the free time to do more?
A. That's correct.
Q. Did it occur to you that apparently the comments you were giving Shook, Hardy & Bacon during these meetings was a factor in the firm's decision to ask you to do more?
MR. ALLINDER: Object to the form.
THE WITNESS: Would you ask that again? I'm not sure I understand that.
BY MR. GILL:
Q. Sure. As Shook, Hardy & Bacon were asking you to do more reading and commenting on articles did it occur to you that Shook, Hardy & Bacon liked the commentary that you had been providing previously?
MR. ALLINDER: Same objection.
THE WITNESS: I don't know what you



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

mean by liked. I was giving them my opinion of articles.

I assume they wanted my opinion on more articles. That's all I assumed. But I don't know -- the word "liked" is the word I'm having trouble with in that question.

BY MR. GILL:

Q. Did you assume that the lawyers of Shook, Hardy & Bacon viewed your comments about articles in a favorable light?

MR. ALLINDER: Object to the form.

THE WITNESS: Favorable has got the same problem as liked. I viewed they wanted information about scientific articles. They were paying me to do that and now they wanted more.

Q. Are you indicating that the thought never crossed your mind one way or the other as to whether the comments you were giving Shook, Hardy & Bacon would be viewed in a favorable light by those lawyers?

MR. ALLINDER: Object to the form. Argumentative.

THE WITNESS: My only assumption was that they were satisfied with the review that I had been giving them of other articles, and I assumed



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

that I would also give a good review of other articles. That's the assumption I was making.
BY MR. GILL:
Q. Now, in connection with the ethics classes that you teach to future researchers, part of those classes deal with the subject of plagiarism as I understand it?
A. That's one of the --
Q. And obviously you tell your students they ought not to plagiarize the work of other students?
A. That's correct.
Q. Do you cover the topic of conflict of interest during these ethics classes?
A. Yes.
Q. How does the subject of conflict of interest arise within the curriculum of that course; in what context do you address conflict of interest?
A. Well, I give lectures and I try to think of all the conflicts of interest I can think of and I try to give them examples.
And some of those examples include that -- for example, if you're reviewing a paper, you review it regardless of who's paying you to review it.
I also tell them you don't know whether you're going to be fired for doing your job or not doing



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

your job so always try to get fired for doing your job and things like that. They love it.
Q. Do you tell the students that they should be sensitive to issues of conflict of interest in forming their work once they leave the safe environment of the university and go off into the real world?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm not certain that I -- we discuss conflict of interest and we -- in fact, if I can find any current examples, I present them to them.
But it's difficult to give you an answer to that question as it's sort of a global question. If you try it again, maybe I can --
BY MR. GILL:
Q. Yes, I'll try it again because I don't think I heard an answer there.
Do you advise students in these ethics classes that they should be aware or sensitive to potential conflicts of interest that might arise in their work?
A. Yes, I do, including I try to explain to them how conflicts occur even in presenting their own data because their own bias about an issue can affect the publication of that data.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

So we definitely, as far as the communication of data, get very much into the idea of how a conflict of interest could potentially affect that and try to avoid those conflicts.

Q. Because conflicts of interest can potentially lead to bad science, true?

A. Potentially.

Q. And you advise students that wherever possible they should try to avoid conflicts of interest in pursuing their work?

MR. ALLINDER: Object to the form.

THE WITNESS: I don't know why anyone wouldn't agree with that statement.

I would like to qualify that answer a little bit. I don't see though -- and I've explained to them that I don't see where getting paid to do something is necessarily a conflict of interest and they should be careful to make sure it isn't, because when someone is paying you to do something, you're not doing them any favor if you allow your own conflicts of interest to influence the product. They're paying you to do the product, irregardless of any conflicts.

So if you let conflicts enter that relationship, you've not done your job as a paid



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

person in that aspect of your career.
BY MR. GILL:
Q. And you've contributed to the dissemination of bad science in such a situation, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: The question is too general for me to answer I think.
BY MR. GILL:
Q. Well, in your last answer I think you indicated that the student ought not to give in to a conflict of interest because that would not be appropriate, words to that effect.
MR. ALLINDER: Object to the form.
THE WITNESS: My words are that when someone is paying you to give your professional opinion you should give it and avoid any kind of conflict of interest.
BY MR. GILL:
Q. And did you also indicate because giving into a conflict of interest isn't doing anybody any good?
MR. ALLINDER: Object to the form.
THE WITNESS: Well, in my mind when you're paying me to provide a product for you, if I let -- if I try to decide what you want and give it to you, then you're not getting what you're paying

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

for.
I should give you my judgment, let you decide then what and how you want to use that. That's the closest I can come to answering that question.
BY MR. GILL:
Q. But if I'm paying you to provide a product for me, for all you know I might want you to provide me with exactly the type of product that I believe will further my economic interests, true?
MR. ALLINDER: Object to the form.
THE WITNESS: Would you please ask that question again?
MR. GILL: Read it please.
(Record read.)
MR. ALLINDER: Objection.
THE WITNESS: I don't believe that. I believe that if you're paying me to provide a product, I don't do you any favor by providing you something that you think you wanted.
BY MR. GILL:
Q. Well, totally aside from your view of what would be best for me, it might well be my view that what would be best for me is to have you tell me exactly what I want to hear, true?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

MR. PURDY: Object to the form. Calls for speculation.
MR. ALLINDER: Object to the form.
THE WITNESS: I think that could be true, but you would be making a mistake because what's the point of paying me if you already have the answer?
BY MR. GILL:
Q. If that is the case and you give in to me and tell me what I want to hear and you publish that information, that is not furthering good science, is it?
MR. ALLINDER: Object to the form.
THE WITNESS: It's not helping you either.
BY MR. GILL:
Q. And it is, in fact, creating bad science, is it not?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know. I would have to have more specifics because I don't know what has been created, I don't know whether -- you know, there are a lot of other things I would have to know about that to --
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

Q. But if you publish a paper in which you simply tell me what I want to hear because I paid you to do the work, that's bad science, is it not?
MR. ALLINDER: Object to the form.
THE WITNESS: By paper do you mean a scientific paper?
BY MR. GILL:
Q. Yes.
A. And by publishing it the way you want to have it published, what do you mean? That I've changed the data or I've falsified the data?
Q. If you simply publish a scientific paper and in that paper you tell me what I want to hear regardless of whether you believe it's true or not, that's bad science, isn't it, Dr. Hamm?
MR. ALLINDER: Object to the form.
THE WITNESS: The question is too nonspecific for me. I'm sorry. I'm not trying to avoid the answer. Let me ask --
BY MR. GILL:
Q. But as a professor of ethics, that's simply a question that you don't feel able to answer?
MR. ALLINDER: Object to the form.
THE WITNESS: I would have to have more specifics.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Now, when you're providing examples to your students in the ethics class as potential conflicts of interest do you discuss situations which they're being funded by private interests to do research, the outcome of which could affect the economic interests of the funding source?
A. I don't know if I do it that specifically, but that's a common thing to -- scientists are engaged in working for a variety of companies, so I do talk to them and I do specifically tell them that you're not doing your company any good at all to provide false data to them. That data regard -- data speaks for itself.
Q. In that last answer, are you talking about a situation where the student, an employee or a situation in which the student has then become a researcher receiving funding from a company to perform research?
A. I don't think there is any distinction. I think in either case a scientist has to try to provide what he believes to be the correct data and the correct interpretation of those data regardless of who's paying for it. That's what you're getting paid to do.



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. So you tell the students when they get out in the real world and they do research to report exactly what you think the research shows, true?

MR. ALLINDER: Object to the form.

THE WITNESS: Basically that's a pretty general statement however, but basically I agree with that.

BY MR. GILL:

Q. But at the same time you caution your students that in accepting research work they should try if they can to avoid potential conflicts of interest, true?

MR. ALLINDER: Object to the form.

THE WITNESS: Would you ask that question -- could I have that question again?

MR. GILL: Let me ask it again.

BY MR. GILL:

Q. You also advise the students that they should try to avoid potential conflicts of interest in conducting research, true?

MR. ALLINDER: Object to the form. Misstates his testimony.

THE WITNESS: I think rather than -- I haven't thought about this a lot so I'm having a little trouble answering it, but it seems to me that



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

if you can avoid conflicts of interest, that's a good thing. But you may not be able to avoid the conflict of interest.

But you should not allow that conflict of interest to affect your science or you're letting down whoever is paying you, because they're not expecting, hopefully, that any data you give to them has been influenced by your conflicts of interest. It may be we all have conflicts of interest.

BY MR. GILL:

Q. Now, you indicated that you haven't really thought about the subject of conflicts of interest to any degree prior to the deposition today, correct?

MR. ALLINDER: Objection. That's not his testimony.

MR. PURDY: Objection.

BY MR. GILL:

Q. Maybe I misunderstood your testimony.

A. I think you did. I haven't thought about your particular question. I have thought about the areas of conflicts of interest throughout my career.

MR. ALLINDER: If there is some confusion about the question and answer would you like to have it read back?

MR. GILL: I'm fine.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

MR. PURDY: At some point could we take a quick break?
MR. GILL: Fine.
(Recess taken.)
BY MR. GILL:
Q. Now, in advising your client -- excuse me. Let me strike that.
In advising your students, Dr. Hamm, to appreciate and be sensitive to potential conflicts of interest, I take it you also advise them that they have to be able to appreciate the conflict of interest before they can be sensitive to it; is that correct?
A. I would agree with that.
Q. And that would simply be good practice on the part of a researcher to be aware of a potential conflict of interest when a researcher takes on a research assignment, true?
A. That's correct.
Q. Now, when you agreed to perform consulting work for Shook, Hardy & Bacon you didn't give any consideration in any conflicts of interest at that time, did you?
MR. ALLINDER: Object to the form.
THE WITNESS: I always give



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

considerations to that. What they were asking me to do was to review articles. I do that for a wide variety of people. I feel I have no conflict of interest.
BY MR. GILL:
Q. And you've never had any concerns about conflicts of interest with respect to time allocation during the years in which you've been a consultant for Shook, Hardy & Bacon, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Again, I always have to be aware of what I have to do in a given period of time and I can't do unlimited things, so -- I do -- I am concerned about that.
BY MR. GILL:
Q. When you're instructing your students in the ethics class about potential conflicts of interest do you advise them that when they've spotted a potential conflict of interest that they should basically lean over backwards to be certain that the work they do isn't compromised by the potential conflict of interest?
MR. ALLINDER: Object to the form.
THE WITNESS: Lean over backward is a difficult term for me, but I do advise them to

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

attempt to make certain that any conflict of interests are known by any parties concerned, and that they don't affect their science.

So we have -- I've had several people where I've shown them this form that I file every year and tell them they should file, so that certainly everyone knows what they're doing.

BY MR. GILL:

Q. So in other words, you advise the future researchers of America that in dealing with potential conflicts of interest they should ensure that research results are not compromised by such a potential conflict of interest, true?

MR. ALLINDER: Object to the form.

THE WITNESS: That's true.

BY MR. GILL:

Q. So that even if any third-party is attempting to compromise the integrity of their research the scientist should resist them?

MR. ALLINDER: Object to the form.

BY MR. GILL:

Q. True?

A. It's the scientist's job, if he's going to put his name on it, that he agrees with what's in that paper.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

So my name doesn't go on any paper unless I agree with what's in the paper.
Q. So you approach the ethics question in this class from the perspective of the researcher who could potentially be the target for conflicts of interest?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know what you mean by target for the conflict of interest.
BY MR. GILL:
Q. The researcher would be the party who potentially could be compromised by the conflict of interest, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Was that a question?
BY MR. GILL:
Q. Yes.
A. Would you ask it one more time?
Q. Sure. You approach the class from the standpoint of the future researchers who might potentially be compromised by conflicts of interest, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Each individual could potentially be compromised by some kind of conflict



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

of interest. I agree with that.
BY MR. GILL:
Q. You don't deal in the class specifically with the morality of the third parties who might attempt to compromise the integrity of the researchers, true?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm not certain I understand the question, but my view of it is that I try teach the scientist that it's his job to stick up for the science.
So if his name is on the paper -- and so it doesn't matter so much what everybody else is doing, you shouldn't accept it unless you agree with it.
So if someone tries to change a line in your paper, someone tries to reinterpret it, that's fine if you agree with it. It's just a better way of presenting the data.
But if you disagree with it, as a scientist you should not allow it to happen; you should not allow your name to be on that paper if you don't agree with the changes that are made to that paper.
BY MR. GILL:
Q. But in other words, in the class you don't approach the lesson from the standpoint of those who

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

might attempt to influence or compromise the researcher, you approach the lesson from the standpoint of the researcher himself or herself, right?

MR. ALLINDER: Object to the form.

THE WITNESS: In a sense I do that. If the scientist does his job properly, it doesn't matter how many people are trying to influence it.

BY MR. GILL:

Q. If the scientist does his or her job properly it doesn't really matter how many people try to corrupt that person?

MR. ALLINDER: Object to the form.

THE WITNESS: That isn't what I said. None of us would like a lot of people trying to change things or corrupt things unless those things are good.

Each time we present a paper, for example, we get lots of input from lots of people, and it's our decision to decide, do we accept that input or not.

We can't know -- in general, I think the motives of the other people are genuine, that they have a different opinion or they have a different way of looking at it or so forth, and it's our job to



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

decide. If they're right, we can accept it, we can make that change. It doesn't affect us.
BY MR. GILL:
Q. Do you always approach these issues from the viewpoint that the motives of the outside person who is attempting to exert influence over the researcher are genuine?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think about -- I don't think about motives. What I look at is what -- what are they asking me to do, what are they asking me to change and do I agree with it.
If I don't agree with it then it's my job to object to the point that I don't put my name on the paper. I resign whatever is appropriate.
BY MR. GILL:
Q. But are you saying that you have always assumed that when some third person attempts to alter the direction of the research in some manner that their motives for doing so are genuine as opposed to being motivated by self interest?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't always assume anything. But I don't generally get into examining why someone has said something other than examining

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

do I think they have -- are they correct, can I agree with it, does it make sense.

So I don't think in general -- when someone reviews a paper or someone makes a change, someone makes a comment to me, I don't generally try to assume why they did that.

I think though if I did assume that, in most of the cases I would find that genuinely they are -- most of the instances I'm aware of, they are generally interested in improving the science and there are differences of opinion in science.

BY MR. GILL:

Q. So generally you view these types of inputs from third parties with respect to the result of research as being in the area of constructive criticism?

MR. ALLINDER: Object to the form.

THE WITNESS: I said that I don't generally assume anything about these inputs.

MR. PURDY: Could you read back the next previous answer?

(Record read.)

MR. PURDY: Object to the form. Asked and answered:

BY MR. GILL:

Q. Now, when you stated, Dr. Hamm, that generally



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

you assume that those who attempt to influence research are genuinely interested in improving the science, did you mean by that that you would regard such conduct as constructive criticism?
MR. ALLINDER: Object to the form. Misstates prior testimony.
THE WITNESS: I don't generally assume -- when someone makes a comment on something, if -- looking at my science and someone makes a comment, I don't generally assume what their motives are.
I look at the comment and try to determine if I think it's a valid one or not.
BY MR. GILL:
Q. And you don't normally attempt to analyze whether or not the comment may be driven by self interest as opposed to pure science?
MR. ALLINDER: Object to the form.
THE WITNESS: Could I hear that question again.
MR. GILL: Would you read it back?
(Record read.)
THE WITNESS: It's so general a question it's difficult to comment. I need more of a specific example I think to make a good comment on

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

that.
But in general, as I have already stated, when I get a comment I don't generally try to determine what the motive of the comment was.
I generally just try to determine if I think the comment is a suggestion that I can use or not.
BY MR. GILL:
Q. Now, you've published a lot of research papers over the years, have you not?
A. A fair number.
Q. Has any third person ever attempted to influence the direction of your research?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know what you mean by tried to influence the direction of my research.
BY MR. GILL:
Q. Has anybody attempted to influence the findings or interpretation of the research work that you have done?
MR. ALLINDER: Object to the form.
THE WITNESS: It's a fairly general question, but I'll try to answer it this way and see if this is useful:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Every paper that you write is critiqued by quite a large number of people, all of whom give you suggestions and changes and so forth, so before a paper gets published -- every paper has changes made in it.

BY MR. GILL:

Q. Now, a number of the papers that would have been submitted to the peer review process would draw comments from peer reviewers, correct?

A. That's correct.

Q. And I take it you have always assumed that the comments of peer reviewers were motivated by a genuine interest in advancing science as opposed to some self interest on the part of the commentator, correct?

MR. ALLINDER: Objection. Asked and answered.

THE WITNESS: I don't think you can ever make that assumption. These are all people. But I don't generally try to make assumptions of what their motives are.

I attempt to look at the comment based on is it a useful comment for me to incorporate. But they may have a wide variety of reasons why they made the comment.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. In accepting the comments of peer reviewers do you typically attempt to understand what their motives might be?
MR. ALLINDER: Objection to form. Asked and answered.
THE WITNESS: I don't think I do. I think I generally look at the comment at face value and attempt to determine, is it right or wrong or is it useful.
BY MR. GILL:
Q. Is it fair to say then with respect to comments by peer reviewers you generally assume their motives are pure?
MR. ALLINDER: Object to the form. Asked and answered.
THE WITNESS: I don't think I've ever said that. I don't know what their motives are and I know everybody's motives aren't pure.
BY MR. GILL:
Q. Are you saying you give absolutely no consideration to what their motives might be as you consider their comments on your papers
MR. ALLINDER: Object to the form.
THE WITNESS: Well, absolutely. None



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

is pretty --
BY MR. GILL:
Q. Let's try to approach it in a different way. You get some comments from peer reviewers, correct?
A. Yes.
Q. Typically do you give any consideration to what their motives might be for making the comments?
MR. ALLINDER: Objection. Asked and answered.
THE WITNESS: I don't typically consider what their motives were, but I also realize their motives may not be wholly pure scientific motives.
Nevertheless, they may have made a comment, regardless of their motive, that was correct or useful or whatever.
So I tend to take the other position of -- I look at the comments and try to determine do I or don't I agree with them.
BY MR. GILL:
Q. In your career can you think of any comments that you got from peer reviewers on papers that you had submitted that you felt were motivated by interests other than purely scientific?
A. I may have felt that way. I'm human and they're



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

human and you get these comments back.

I know on a number of occasions I have been very angry at the comments I got back, so --

Q. And what I'm asking is can you think of any as you sit here today of any comments you've received over all these years on your papers that you thought were motivated by some type of self interest on the part of the peer reviewer?

A. I can't think of a specific example. I've had papers that have never been published because I couldn't get anybody else to agree with my views as has every scientist.

Q. And in those --

A. I don't know what their motives were and there is no way in those cases could I, nor did I try to, find out what their motives were.

Q. But were you concerned in any of those cases that the motives of the peer reviewers may have been directed by self interest as opposed to scientific truth?

A. I think it's possible, but have I been concerned? I've been concerned from the standpoint of I don't like it in science when anyone operates that way.

So as a scientist I -- I haven't -- you can turn



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

around and submit to another journal. So I haven't -- the level of concern may not be as high as your question is asking.

Q. What I'm asking, Dr. Hamm, is can you think of any specific instances when some paper was turned down by a particular journal as part of the peer review process and you felt that the comments of the peer reviewers was motivated by self interest, whether you were right or whether you were wrong?

A. That's what I'm thinking. Scientists frequently think that, so we always -- scientists are very independent people who whenever someone doesn't believe we're right we always think there is something going on.

So it's common for scientists to have those kinds of thoughts. As far as me having any direct thoughts on that, I can't think of a specific instance.

Q. Now, a number of the research papers that you have prepared I take it were based upon projects that were funded by either the government or some private group, correct?

MR. ALLINDER: Object to the form.

BY MR. GILL:

Q. Let's start again. We're having trouble



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

communicating. Have you ever received any funding Dr. Hamm, in connection with any research work?
A. Yes, I have.
Q. Has any of that funding been by the US government?
A. Yes.
Q. In connection with any papers that you have prepared as a result of government funded work, did you ever have concerns that the government as the funding agency was attempting to influence your work due to its self interest?
MR. ALLINDER: Object to the form.
THE WITNESS: In the specific, I don't think I can give you a specific example. In the general, we all know that funding is tremendously influenced by political ideas and by -- so the funding itself is only available in certain areas because of people who feel that's were the money should be.
And those are generally political views. So I don't know if I'm getting to your question.
BY MR. GILL:
Q. We're getting close. Politicians make the money available to the government agencies to fund various research; that's part of what you're saying, correct?

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: The entire process has political -- and it should. Our society needs to allocate the money to things that it considers important to itself.
BY MR. GILL:
Q. Have there been any occasions over the years where you felt that you were getting input from a government funding source that reflected some self interest of that governmental agency as opposed to input that simply reflected an attempt to improve the scientific fact finding effort?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Do you understand the question?
A. I think I do. I'm not certain I do, but in my mind that's common. So funding decisions are made throughout the government daily based on things that may not be in the best interests of what I would consider good science, but instead are made because of other considerations.
Q. Now, I'm not speaking right now about the decision to fund. I'm talking about your work, work that has already been funded. Are you with me so far?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

A. Right.
Q. Once you've received funding from the government and have embarked upon some research work and you reached a point where you wish to prepare a paper that might be published somewhere, in those instances have you ever had input from representatives of the governmental agency with respect to what you should put in your paper, how you should say it, how you should interpret your findings, any of those things?
MR. ALLINDER: Object to the form.
THE WITNESS: The answer depends tremendously on whether you're talking about a grant or a contract.
If you're talking about a grant, in general most funding agencies give you lots of more latitude and do not have a first person sort of relationship with you the way they do with a contract.
A contract at every step of the way you're told things you can and can't do and things you can and can't publish.
So contract mechanism, yes, the government frequently tells people things with regards to contracts.
BY MR. GILL:
Q. Have you done some government contract work?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. I've been in the government giving contract work more, and I've been in a private institutions giving contract work more than I've been -- I've never -- well, let me think.

Most of my work has not been on contracts other than when I've been the person administering the contracts. I've been on the other end of the side.

Q. I understand you've been on the other end more often, but have you on some occasions been the researcher on a government contract?

A. I've been the PI on a few grants that you might consider contracts.

Q. Principal investigator, is that what PI stands for?

A. Yes. But I think in general the answer is no, I have never been a contractor --

Q. Well, on --

A. -- on a government contract.

Q. On those few cases where you were the principal investigator on a government contract was the -- was some representative of that government agency telling you what you could and couldn't put in your paper that you might seek to publish?

MR. ALLINDER: Object to the form.

THE WITNESS: I may have confused you



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

with my answer, but I don't think I've ever been the recipient of a contract from the federal government.
BY MR. GILL:
Q. All right. But you have administered or played some role as a representative of the federal government with respect to contracts that have been awarded to researchers, correct?
A. That's correct.
Q. And was part of your role in any of those situations related to telling the researcher what should or should not go into any paper that the researcher might have wanted to publish?
A. Object to the form.
THE WITNESS: It's a fairly general question, but in answering it generally, we didn't allow the researcher to publish his work at all. We published the work ourselves. We also -- if we had had a contractor who wished to publish something and say that it was done with our money and we didn't agree with it, then we would have done quite a few things to keep them from doing that.
BY MR. GILL:
Q. Now, when you say that the government usually published itself, are you talking about NCI?
A. Yes.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. And you've got a researcher doing some contract work for NCI and NCI is going to publish a paper based on that research, correct?
A. Basically we publish technical reports rather than papers. We did publish some papers.
Q. What's the difference between a technical report and a paper as you understand it?
A. A technical report you attempt to provide all of the relevant data, you attempt to interpret it within the contract and the technical report itself.
There is less speculation, there is less talking about the next project, that kind of thing, that you would have in a full paper.
Q. So the paper would be broader in nature in its scope?
A. It would be narrower in many cases. It would have much less data in it. And a paper generally takes -- unfortunately takes whatever might be positive and attempts to publish it. Negative findings are very rarely published.
Q. So technical papers -- excuse me. Technical reports are heavy on data and scientific papers are heavy on interpretation?
A. No. Technical reports also are heavy on interpretation, but they're less involved in



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

speculation on what -- so the interpretation is limited more to the data.

So the data -- you can't go beyond the data in a technical report as easily as you can in a paper.

Q. Who would write these technical reports that NCI was going to publish that had been created through some contract research?

A. We had such difficulty getting the contractors to write the papers that we hired a firm to do that for us.

So we had a contract with a paper writing firm to write those papers, but that was because the contractor -- and it's very common in contract work to have difficulty getting the contractors to write the papers.

Q. So our federal government would actually let two contracts in your experience at NCI, one to do the research, and then when the research was done it would let another contract for some company write up a technical report based on the research?

A. That's correct.

Q. Now, would NCI's employees get involved in the outside contract work that related to the writing of the technical report?

MR. ALLINDER: Object to the form.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: We would get involved in that. We would visit the place, we would --
BY MR. GILL:
Q. I mean in actual written language in the report.
MR. ALLINDER: Object to the form.
THE WITNESS: Yes. The NCI after the contract that the reports -- had the reports in draft form, then the NCI staff would re-write those papers and bring them out in a final form.
BY MR. GILL:
Q. Who at the NCI would re-write the papers? Would it be scientists?
A. It would be a whole variety of people including the contract had a whole variety of people as well.
Q. At NCI among the people that would be involved in rewriting the outside consultant's report would any of them be scientists?
MR. ALLINDER: Object to the form.
THE WITNESS: Of the contracted company that's writing the report?
BY MR. GILL:
Q. No. Of the folks at NCI that would be involved in taking a draft from the outside company and writing it up to be published, would any of those



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

people be scientists?
MR. ALLINDER: Object to the form.
THE WITNESS: Yes. Some of them would be scientists.
BY MR. GILL:
Q. And would the contractor that had actually conducted the research have any role in choosing the language for the technical report?
MR. ALLINDER: Object to the form.
THE WITNESS: They obviously had to provide their data to the contracting group that's writing the report.
So they submitted their data and different laboratories had more or less input into that based on their abilities to have more or less input into that process. But they had a minimal input into the process.
BY MR. GILL:
Q. So the outside contractor would supply data and then a second outside firm would attempt to interpret the data in terms of preparing a draft of the technical report; is that correct?
MR. ALLINDER: Objection. Misstates the testimony.
THE WITNESS: Interpretation occurred



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

at all levels. So interpretation occurred at the contract lab level. The people writing the report had scientists as well whose job it was was to interpret the data, and NCI personnel also rewrote the final draft.
BY MR. GILL:
Q. So in all cases with respect to this contract work, it was understood that the views that were going to be expressed, if any papers were ever published based upon this work, would be the views of the National Cancer Institute?
MR. ALLINDER: Object to the form.
THE WITNESS: That's I believe correct, and that's the nature of contract work.
Contract work generally is the views of all the people involved, and so -- however, if there had been serious agreements -- and in fact, the Cancer Institute did a really good thing in that the pathology data was sent to a special group of pathologists to make the interpretation of the lesions in those studies.
So one of the problems in science is many people publish papers and the pathology is inadequate because the pathologist who did that study isn't really as competent as this team of pathologists.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Which paper or papers are you referencing now?
A. All the technical reports that are on my CV. The data for the pathology went through what's called the pathology working group, and it was frequently found that the initial pathology was wrong.
Q. But when the paper was actually published, that paper which was the product of the contracts that were led, was going to be the view of this government agency on that particular subject?
MR. ALLINDER: Object to the form. Asked and answered.
THE WITNESS: It was a technical report. In general these became technical reports and very few became papers per se.
So we use the term paper and technical report in different ways in science. So to say that the paper -- any paper that resulted from these technical reports, had they decided to advance views that the Cancer Institute did not agree with, then we would have had a conflict.
BY MR. GILL:
Q. Well, first of all, with respect to the technical reports, you told me that they contain some interpretation, correct?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. They interpret the data.
Q. And in interpreting the data in a technical report issued by NCI through a contract process the interpretation was going to be the interpretation of NCI, correct?
MR. ALLINDER: Object to the form. Asked and answered.
THE WITNESS: It was -- it was the interpretation of the contract scientists; the scientists who wrote the report and the NCI personnel who wrote the final report. So all of those people had a stake in the interpretation.
BY MR. GILL:
Q. I misunderstood. Would the technical report under the interpretation section then be subdivided into, here is the contractor's interpretation, here is the writing contractor's interpretation, and here is NCI's interpretation?
MR. PURDY: Object to the form.
THE WITNESS: No, but the report would have a listing of all the contract personnel.
So all the personnel would be listed in the report so you can look in there and see every person who participated in this.
If any scientist objected to the views of



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

that report, it was their job to surface that objection.
BY MR. GILL:
Q. Through some other publication?
MR. ALLINDER: Object to the form.
THE WITNESS: No. They could have said I object to this interpretation.
BY MR. GILL:
Q. They could --
A. That never happened that I know of.
Q. They could have written that into the technical report; they had the contractual right to state minority view or an objection to the interpretation that NCI placed on the data that the researcher had developed?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know the specific answer to that question, if they had a contractual right or not, but in all dealings with scientists you have the right to form your minority opinion and to express it.
And I would assume if -- I don't know what -- I can't answer the specific question of their contractual right to express it in the technical report.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. But as you understood the process while you were at NCI in connection with the publication of these technical reports, once the outside drafting firm had submitted their draft to NCI of the data and the interpretation, NCI was free to edit it any way it chose before it published the technical report under the name of NCI, true?
MR. ALLINDER: Object to the form.
THE WITNESS: We did not have the luxury of any way we chose. We had to be able to substantiate any changes based on the data.
BY MR. GILL:
Q. Who was it that made you substantiate the changes?
A. As scientists we don't operate any other way.
Q. I'm still lost, Dr. Hamm. If NCI takes or took a draft technical report and edited either the data and/or the interpretation and then published the end product, who was it in government that was going to investigate whether or not NCI was justified in altering the draft?
MR. ALLINDER: Object to the form.
THE WITNESS: It would be investigated by government after the people who were affected by



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

this report which they invariably contested every positive technical report that came out, then there was an investigation of the data and the interpretation and so forth.

So there was a regular review mechanism. If someone contested a positive technical -- these reports were to determine if chemicals were or weren't carcinogenic and almost every time we had one that came out that it was, then anybody who had an interest in that chemical would object, and then there was a formal review procedure to determine if the technical report was or wasn't correct.

BY MR. GILL:

Q. A formal review procedure with lawyers and everything?

MR. ALLINDER: Object to the form.

THE WITNESS: I assume so, but I didn't ask everybody in the room what their credentials were.

BY MR. GILL:

Q. But in other words, when the government issued a technical report through the contract process it could edit the draft however it wished to, but the government was subject to some further review by someone who claimed to be adversely affected by the



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

report?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. True?
A. All science is subject to further review. So once it is published, that's the process. So someone can publish another paper, someone can refute your data. So that's the process.
In this case there was a formal process because these technical reports had some significance to whomever had an interest in whatever chemical we were studying.
Q. And the other form of scientific review in terms of people writing other papers or letters to the editor, disputing the findings, that isn't anything like this formal review process that you were familiar with at NCI, true?
MR. ALLINDER: Object to the form.
THE WITNESS: In the case of these technical reports, the same process was available. So letters to the editor were written and the same process occurred.
There was also a process through the government where you could convene a review including you could get all the slides and so forth to



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Stanford http://tobaccodocuments.ucsf.edu/docs/zgxd0001

determine if you agreed with the original diagnosis.
So there was a somewhat more formal review in this case that's not always available when you write a letter to the editor or you write another paper. Sometimes you're unable to get the original slides and so forth.
BY MR. GILL:
Q. So there was a safeguard built into the government contract research process, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know that it was built in per se, but I do know that if someone wanted to avail themselves of this process, the process did exist.
BY MR. GILL:
Q. And was it your understanding that part of the reason to have this review process was that the research work undertaken by the government with public money was often times influenced by political considerations?
MR. ALLINDER: Object to the form.
THE WITNESS: No, I don't believe at all that that was the reason for this review.
The reason for this review was so that someone who objected to the data could have an avenue

http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

to determine if they agreed with that.
BY MR. GILL:
Q. But you did understand that the government's use of public money in conducting research was often driven by political considerations?
MR. ALLINDER: Object to the form.
THE WITNESS: As I tried to explain earlier, I believe that's true, including the chemicals that were selected to be tested were driven by political considerations.
BY MR. GILL:
Q. Now, with regard to the government's grant program, the researcher had more say in whatever paper might ultimately be published as a result of the work; would that be a fair way to put it?
MR. ALLINDER: Object to the form.
THE WITNESS: Grants typically -- there probably are differences between contracts and grants, but in general the two forms are different in the respect that in a contract generally you have very little latitude and you have a legal obligation to do certain things.
In a grant you have more latitude to change budgets, change direction and so forth. Your problem there being --



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Who has the latitude --
MR. ALLINDER: Excuse me. You have to let him finish.
BY MR. GILL:
Q. I'm sorry. It's the researcher that has more latitude in the grants, correct?
A. The researcher's latitude is limited by a number of regulations that go through universities.
So a lot of these are at universities and so the grant is to the university, not to the researcher. But within these -- he's much less limited in a grant than he is in a contract.
The grant spells out very specifically what is intended to be done. A grant typically spells out you can only use so much for personnel, you can only use so much for equipment, but you have some latitude. The product can be varied based on your own input.
So if you use the money, you don't come up with something that the sponsor thinks is useful then you won't get another grant from them. That's the check and balance on the grant system.
BY MR. GILL:
Q. If you don't come up with research results that



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Support: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

the sponsor thinks is useful you typically in your experience will not get another grant from that sponsor?
MR. ALLINDER: Object to the form.
THE WITNESS: In general that's a fair statement because when you go in for your next grant a major emphasis of the review is what have you done on the previous grants.
So if the previous grants are not considered to have been fruitful, you're not going to get any future grants.
BY MR. GILL:
Q. And useful might be from the perspective of accomplishing something of scientific merit or it might be the self interest of the sponsor, true?
MR. ALLINDER: Object to the form.
THE WITNESS: That is lot of -- there are a lot of factors that influence how a committee would decide to give the next set of money.
BY MR. GILL:
Q. But useful could fall into either of at least those categories, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: The two categories being scientific, merit --

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Support: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Or self interest of the sponsor?
MR. ALLINDER: Same objection.
THE WITNESS: I can't define self interest of the sponsor very well. Most sponsors, their view is scientific merit. That is the main thing they look at.
They gave you the original grant because they like the area you're working in. If you did something that was significantly meritorious, you would likely get another grant.
BY MR. GILL:
Q. With respect to tobacco companies, have you been able to -- based upon your views, have you been able to form any opinions in this case as to whether tobacco companies are more interested in their self interest or scientific truth with respect to research projects directed toward issues of tobacco use and health?
MR. ALLINDER: Object to the form.
THE WITNESS: I haven't reviewed the tobacco companies' research. I've reviewed the CTR research.
The CTR research looks to me like good scientists trying to Foster meritorious research.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. So from your review of all the documents that relate one way or another to the CTR search, you form the opinion that from the standpoint of the sponsor, useful would relate only to scientific merit as opposed to the self interest of the sponsors?
MR. ALLINDER: Object to the form.
THE WITNESS: I view that good -- meritorious science is in and of itself a value product, that it does no sponsor any good at all to generate or whatever a particular type of science.
So science speaks for itself, the data speaks for itself.
In my review of everything that I looked at for CTR, that's exactly what they were attempting to do is find answers to questions regardless of what that answer might be.
BY MR. GILL:
Q. So you can't really conceive of a situation where a sponsor might want to promote research only because it may advance the sponsor's self interest as opposed to scientific truth?
MR. ALLINDER: Object to the form.
THE WITNESS: It does no good to do that. It may take a long time, but the answer will



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

come out. For a sponsor to do anything else is not in its own best interest.
BY MR. GILL:
Q. And that's your personal view of what would be in a sponsor's best interests?
MR. ALLINDER: Object to the form.
THE WITNESS: That's my personal view, but based on my experience working with organizations where that's important.
I worked for the chemical industry when I was the head of toxicology at CAI. It would be of no benefit for that country to come up with an answer that they thought they wanted.
What they needed was the correct answer, scientifically correct answer, to the best we can get that today. And then they have to deal with it as a company.
BY MR. GILL:
Q. Do you have any understanding whether the tobacco companies share your view on that subject?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't have the knowledge to do that, but it would surprise me. These are intelligent people that know what they're doing, and it would surprise me if they acted any

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

differently.
BY MR. GILL:
Q. So it would surprise you if tobacco companies took the view that sponsoring research to promote their self interest might be in their long-term best interest?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think it's in the long-term best interest of any industry to support research that comes up with a particular answer.
You have to support research that comes up with the best answer we have today then deal with that.
BY MR. GILL:
Q. I understand that's your view, Dr. Hamm, but what I'm asking you is would you be surprised if it were the view of the tobacco companies that sponsoring research which promoted their economic self interests was, in fact, in their best long-term interests from their perspective?
MR. ALLINDER: Object to the form.
THE WITNESS: I've already answered that I think in that it would surprise me if anybody in a position of authority acted that way because I



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

think all of them are bright individuals and realize that it doesn't help you any to generate something that's wrong.
BY MR. GILL:
Q. Now, with respect to grants, have you conducted research on grants from the US government?
MR. ALLINDER: Object to the form.
THE WITNESS: Have I conducted research on grants from the US government?
BY MR. GILL:
Q. Have you conducted research with grants provided by the US government to fund the research?
A. Yes, I have.
Q. And in connection -- approximately how many times? Are we talking about just a couple or dozens or hundreds or what?
A. You mean the number of research projects or the number of grants?
Q. The number of research projects that have been funded through grants by the US government.
A. By the US government, I don't think -- none of us think of it this way including many of our projects are funded by more than one source. So generally a research project isn't funded by just one source.

http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

But in general the number is not large. I'd say it's ten or fifteen papers were funded by the federal government.
Q. Now, with respect to those ten or fifteen papers, did anybody from the federal government attempt to influence the way you wrote your paper?
MR. ALLINDER: Object to the form.
THE WITNESS: These were grants?
BY MR. GILL:
Q. Yes.
A. In the case of grants you generally don't submit your paper to them. So you generally submit it to the review process.
Q. Recognizing that you don't usually submit the paper to the funding source --
A. You do if it's a contract.
Q. We're talking about grants now. Recognizing that you normally would not even be submitting the paper to the funding source prior to seeking publication, nevertheless, has anybody from the federal government in those ten or fifteen cases attempted to influence what you were going to write in your paper?
MR. ALLINDER: Object to the form.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. Recognizing you don't submit it to them for comment, but also recognizing that they know you're going to -- that you may go to a journal with respect to your paper, has anybody from the government attempted to influence what you put in your paper that you might submit for publication?

MR. ALLINDER: Object to the form.

THE WITNESS: In the case of grants, the federal government generally doesn't know when you're going to send the paper in so there would never be an instance where this would happen.

However, I think if they did know that your paper was going in and they knew that you were going to say that you published this under Cancer Institute money and that what you're saying is completely wrong, I think somebody would say something to you.

BY MR. GILL:

Q. I think you're misunderstanding my question, Dr. Hamm.

MR. ALLINDER: I'm not sure he did. Object to the form.

BY MR. GILL:

Q. Based on your historical experience in conducting research with money provided by the US government through grants, in those cases has anybody



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

from the US government attempted to influence what you actually wrote in any paper that you prepared as a result of that research?

MR. ALLINDER: Object to the form.

THE WITNESS: Well, asked that specifically, the answer is no, but they have no mechanism to do so.

BY MR. GILL:

Q. And have you also conducted research using grant money that was provided by the private sector?

A. When I was the head of toxicology at CIIT, all of our money was provided by the chemical industry, so I guess in that respect.

At the time I've been at academic institutions, I don't think so. I don't think I've had any private funding.

Q. So the only private funding that you've ever had for research studies related to grants was through the chemical industry?

MR. ALLINDER: Object to the form.

THE WITNESS: Well, when I was at CIIT, we didn't work with either grants or contracts, but our entire budget was provided by the chemical industry.

So all the research I did during the years



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

I was at CIIT was funded by private funds as opposed to government funds.
Q. Were you an employee of that organization?
A. Yes.
Q. Is that CIAT?
A. CIIT.
Q. Chemical Industry --
A. Institute of Toxicology.
Q. And I take it that any -- did you publish any papers as a result of that work?
A. Yes, I did.
Q. Was it necessary to submit your papers to any supervisor or superior in that organization before you submitted them for publication?
A. Yes, it was. Every paper had to be submitted to an internal review. In fact, I reviewed every paper that everybody else wrote as part of my duties.
Q. So the only time that you have been involved in doing research with grant money where there was no supervision over what you put in a paper that my might be presented for publication was your work funded by the US government; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That was a fairly complex question, but I believe the answer is that's

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

correct, and that's true of most people in academia. That's the major place where there are a lot of grants.

Other companies that are mostly contract work by the other mechanism similar to CIIT's mechanism.

BY MR. GILL:

Q. Now, aside from having conducted some research with funding provided through grants, have you ever administered any research that was funded through grants?

MR. ALLINDER: Object to the form.

THE WITNESS: I've administered I think mostly contract research. I don't think anything I've administered would -- I think grants were administered through another part of our group.

So I don't think I've directly administered a grant. Now I'm hedging there because I was the head of toxicology at the Cancer Institute.

There may have been grants administered by people who work for me, but our major program there was contracts.

BY MR. GILL:

Q. And all the contract administration work that you've done was through NCI?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: I also administered -- I'm going -- I'm not certain if you'd call me -- I became the head of toxicology at CIIT and they had contracts that we were completing that it might be said I had some administrative function in that, but it was not my direct administrative function.
BY MR. GILL:
Q. And I take it at the Chemical Industry Institute any papers that are submitted for publication were reviewed and edited by your organization before they were submitted?
A. That's correct.
Q. And if your organization wasn't comfortable with the paper as drafted by the researcher, one of your organizations or options was to simply deny the publication, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I think these were contracts and I think the contracts specifically required that we approve the paper.
But I'm not absolutely certain -- since it didn't happen, I'm not certain what -- but that's my remembrances of that is that our contract specifically gave us the right to reject the



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

publication.
BY MR. GILL:
Q. And to the best of your recollection the Chemical Industry Institute did not conduct any grant research or fund any grant research?
A. I don't think they did at that time, the time I was there.
Q. Now, were there a number of lawyers that worked for the Chemical Industry Institute of Technology?
A. It's Chemical Industry Institute of Toxicology.
Q. I'm sorry.
A. And there was a lawyer that worked for us. He then had some kind of relationship with other lawyers that work for the companies.
Q. That work for the particular chemical companies that own the Chemical Industry Institute of Technology?
MR. PURDY: Toxicology.
BY MR. GILL:
Q. Toxicology. I'm sorry.
A. CIIT was set up very similar to CTR and so the money came from the chemical industry, but they did not -- ownership, I don't know who -- how we would say it was owned.
It was a non-profit research institute funded by



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

the chemical industry. We had a lawyer who worked for us.
There was no direct -- there was no direct reporting to other lawyers, but other lawyers from the chemical industry met with us on occasion and met with him on occasion and so forth.
Q. And this lawyer who worked for CIIT as you understood it he was an employee?
A. Yes, I believe so.
MR. ALLINDER: Of CIIT?
BY MR. GILL:
Q. Of CIIT?
A. Yes.
Q. And this lawyer employed by CIIT involved himself or herself in the review of any papers that were going to be submitted for publication?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. True?
A. I don't know.
Q. And at various times during your tenure with CIIT you met not only with this in-house lawyer, but with lawyers who were employees of the chemical companies that owned the institute, correct?
A. That's correct. Although ownership of the

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

institute, I still don't know if I would call it they owned the institute. They funded it. We were a non-profit research institute.
Q. Did you have any understanding of any entity that may have had an ownership interest in that institute other than chemical companies?
A. At the point I was there it was chemical companies. I think that has changed to include some pharmaceutical companies, but I'm not certain of that. At the time I was there it was so called chemical companies.
MR. ALLINDER: Sometime when it's appropriate, can we have a short time to carry us through the lunch?
MR. GILL: Sure.
(Recess taken.)
THE WITNESS: Could I correct something? I thought of something that I said was wrong. It's a real small point.
I have administered grants for the federal government because whenever I'm a consultant for the federal government, during that time you're consulting and that's usually grants you are an employee of the federal government.
But I've never viewed it that way because

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

I'm a consultant in my view. But technically when I go to those review meetings, which is grants, I am a government employee during that time.

So I have administered grants in a sense in that we have been the review team that awarded them.

BY MR. GILL:

Q. But you haven't participated beyond the actual funding of the grant or the decision to fund; is that correct?

MR. ALLINDER: Object to the form.

THE WITNESS: Well, I have participated in the same capacity in that one of the things we do is we go back and review the progress of the work and are you going to get the next grant.

And that's heavily weighted on what you did with the previous grant. So I go on that, to review that activity, the past work and are we going to give you the next grant.

BY MR. GILL:

Q. And in the course of trying to determine whether the research done pursuant to the grant was useful have you attempted on any occasion to influence how the researcher might write a paper for publication?

MR. ALLINDER: Object to the form.

THE WITNESS: No, that's not been my



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

duty on those occasions. I've been there as a reviewer.
BY MR. GILL:
Q. As you understood it was CIIT a trade association for the chemical industry?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't believe so. I believe we were a non-profit research industry funded by the chemical industry.
I don't know the specific designation of -- I don't understand the tax law regarding that.
BY MR. GILL:
Q. But aside from tax considerations, did you understand the organization to be a trade association attempting to advance the interests of the chemical companies that are funding the activities of your organization?
MR. ALLINDER: Object to the form.
THE WITNESS: No. My understanding is that we were a non-profit research institution that was supposed to do research in toxicology of commodity chemicals.
BY MR. GILL:
Q. You were supposed to do a research totally in the public interest as opposed to whatever might have



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

been the private interests of the chemical companies?

MR. ALLINDER: Object to the form.

THE WITNESS: I believe all research is in the public interest. So -- specifically in the case of CIIT, we released all of our information to a wide variety of sources, not our member companies, including the publication of data in the public interests and the public has access to that data.

BY MR. GILL:

Q. All of the research work done by CIIT as far as you know has been published?

MR. ALLINDER: Object to the form.

THE WITNESS: I can only speak for the time I was there and that research that was completed at the time I was there was all published in one form or another.

Some was in the form of technical reports, some was in the form of publications.

BY MR. GILL:

Q. And it was all published after it had been reviewed and edited by you and others?

MR. ALLINDER: Object to the form.

BY MR. GILL:

Q. True?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

A. All research is published after it's reviewed and edited by me and others, so I think that's true of everything I've ever published.
Q. No. I'm not speaking of research conducted by you, Dr. Hamm. As I understood it -- maybe I misunderstood. You weren't actually doing the research, you were involved in reviewing the research?
MR. ALLINDER: Object to the form.
THE WITNESS: No, I was both. My capacity has always been partially administrative and partially as a research scientist.
BY MR. GILL:
Q. So when you were doing research for CIIT you were doing it as an employee of the organization, correct?
A. That's correct.
Q. And your research was not only reviewed by you, it was reviewed by your superiors?
A. That's correct.
Q. And any technical reports or papers that were ever released based upon your research work had first been reviewed and edited by your superiors, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's correct, and not only my superiors but every scientist in the



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

institute.
BY MR. GILL:
Q. And by lawyers?
A. I don't know --
MR. ALLINDER: Object to the form.
THE WITNESS: -- but I wouldn't be surprised.
BY MR. GILL:
Q. And in terms of the review work that you did at CIIT, you were reviewing the research work of other employees of CIIT; is that correct?
A. That's correct.
Q. And were you also reviewing the research work of parties who had received contracts from CIIT to conduct research?
A. Just at the beginning of my time there because CIIT, as many people were doing at that time, began to quit doing contract work and so those contracts were all terminated early after I got there, but we did work on it.
It takes some time to evaluate them and publish them and so forth, so some additional work did go on where I was involved with evaluating and publishing contract work.
Q. And participating in the editing process with

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

regard to any reports that came out of that contract research?
A. That's correct.
Q. So after the contract research was all terminated was all of the research of CIIT conducted by employees of the organization?
A. That's correct.
Q. Did CIIT also issue press releases?
A. Could I -- I would like to amend my last answer slightly in that we may have had a few grants and contracts during the time I was there, but the majority of the work was brought in-house.
Q. And did CIIT also issue press releases?
A. Yes.
Q. What was your job?
A. I was the head of the department of toxicology.
Q. Did any of your duties relate to the preparation of press releases?
A. I can't -- I'm certain I probably read them and edited them and -- when they involved something I knew something about.
Q. Did any of the papers published by CIIT while you were an employee contain findings that any of the chemicals sold by the companies who funded the organization were carcinogenic?

http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

A. Yes.
Q. How many?
A. I really don't know. It would be a small number.
Q. What are the papers that you can think of that come to your mind that concluded those findings?
A. One of the major ones was formaldehydes. You may remember that formaldehyde there was a big activity that it was a carcinogen. The original work was done at CIIT.
Q. What were the findings of that work?
A. That it was carcinogenized in rats and mice. That happened prior to my coming, but was still in the process of being worked on when I got there. Because one of the things CIIT did was to just have a yes no answer about a chemical is not very useful to extrapolate to humans.

So a great deal of additional work was being done to try to understand there was an even difference between the rat and the mouse in the amount of =carcinogenicity.

So those two closely related animals were very important because neither of them is like a human and they're not acting the same.

So there was a lot of basic research in trying



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

to understand this yes, no answer.
Q. What years were you at CIIT?
A. I believe '80 to '84.
Q. Which of the companies that funded the CIIT distributed formaldehyde?
A. I don't know specifically, but it was probably most of them because the chemicals we were studying were the so-called commodity chemicals which meant they were very large volume chemicals that almost all the companies had some interest in.
Q. Were you aware of any changes in the distribution of formaldehyde by the companies that funded CIIT after CIIT issued this report finding that formaldehyde was carcinogenic?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't specifically know what any of the companies did with that information.
I do know that the government decided to change the toxic limit value for formaldehyde and so specifically limited to a greater extent how much humans were exposed to formaldehyde, but I don't know what the companies specifically did with that information.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. Your understanding was the government reduced the toxicity limit to formaldehyde?
A. The threshold limit. To each calculation it is known there is a threshold limit value basically related to worker safety.

The average person is exposed to such small amounts of things that it's not as significant, but a worker who might be exposed to a compound eight hours a day, five days a week for his life, there are these threshold limit values.

So because this had become a known rodent carcinogen, that value was appropriately lowered and there is even a designation in there that it's now a known rodent carcinogen.
Q. In other words, there was a threat to the employees, the production workers, of the chemical companies that funded CIIT if chemical commodities that those companies produced in large volume caused cancer?

MR. ALLINDER: Object to the form.

THE WITNESS: If there was a potential threat to others as well. But the focus was on the workers both at the government level and at our level because they were the ones exposed to the largest amounts of these items.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY GILL:
Q. As far as you know are there any industry substitutes for formaldehyde?
A. I don't know that and -- my area of expertise has been to test and evaluate compounds for carcinogenicity and I haven't really gotten into what do they switch it for.

One of the major problems though is many compounds are not tested. So you have to be very careful to ever make a change in anything because the new thing you pick may be more carcinogenic than the thing you're getting away from.

So that's my only -- has been my worry as a toxicologist. The other thing was we only had the yes no answer that this causes cancer in a rodent. That doesn't tell you very much about what causes cancer in a human.

So the government is forced to act because they have to be ultraconservative where, in fact, it might not be anywhere dangerous.

They took it out of toothpaste I believe and the amount that was in toothpaste was of no consequence.

And the further basic research was underway to try to determine the significance of this finding and it will be a long time before we know the answer to



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

this question.
Q. So having been involved in this question you're not really sure whether formaldehyde poses a threat to humans?
MR. ALLINDER: Object to form.
THE WITNESS: We only know based on the experiment that it's a rat and mouse carcinogen. We don't even know if we did the same experiment in rats and mice we would get the same results.
But we know under that set of circumstances and that experiment it was a carcinogen. We keep learning new things that help us understand the things we knew in the past are no longer correct.
The mice get liver tumors very frequently and it's recently been discovered that this is caused by a bacteria that lives in their intestinal tract that none of us would have predicted.
So all those studies are suspect because no one knows whether this bacteria was there or not.
BY MR. GILL:
Q. But as far as you're concerned, Dr. Hamm, the results of the rodent study with formaldehyde don't necessarily imply any harmful effects between formaldehyde and human exposure?
MR. ALLINDER: Object to the form.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: No, I don't. When you have a rodent carcinogen -- that's why we do the test. So we're using it as a substitute for humans.

So you have to be concerned that perhaps the same thing happens in humans.

So as well as us doing studies on the basic studies, other people are doing studies on what does it mean to the human and studies of morticians and people like that that are exposed to high levels of formaldehyde have shown no increased incidence of tumors.

BY MR. GILL:

Q. Did CIIT do any follow-up studies with the rodent studies with rodents related to formaldehyde?

MR. ALLINDER: Objection. Asked and answered.

THE WITNESS: Yes, that was -- the whole basis of that institute was that it was not very useful for the public to have a yes no answer on a rodent.

What we need to know is mechanism, and then we can extrapolate better to a human.

BY MR. GILL:

Q. Has the mechanism been discovered by which formaldehyde has a cause and effect relationship with



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

health either in rodents or any other species?
MR. ALLINDER: Object to the form.
THE WITNESS: The mechanism of cancer is subject to intense debate in research and is a very complex issue.
So we probably don't know at this point in time the true mechanism of any cancer. We have many theories and we have some experimental data, but the institute did show that the difference between the rat and the mouse probably is a difference in the way the rat and the mouse adapt to breathing the compound while they're in the chamber.
BY MR. GILL:
Q. Is it your view that causation cannot be established with respect to disease unless the mechanism by which the agent causes the disease is known?
MR. ALLINDER: Excuse me. Are you limiting this to cancer or beyond cancer?
MR. GILL: Can I have the question back?
(Record read.)
MR. GILL: Any disease.
MR. ALLINDER: Object to the form.
THE WITNESS: There are certain

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

diseases like infectious diseases where it's much easier to determine causation because postulates can be easily fulfilled.

But with all the long-term diseases, atherosclerosis, cancer and so forth, the issue is much more complex.

And so we can make good estimations. We can attempt -- we can do the best we can with the tools that we have presently, but, in fact, until we can know the exact mechanism, we can never really know how that agent affects that individual.

I'll just give you an example of a mouse rodent tumor; it's now thought to be caused by a bacteria, the same way members of that same family are now known to cause ulcers whereas we used to think ulcers were caused by too much acid.

And there was plenty of evidence to show that it was the amount of acid that you're secreting and if you take a compound that decreases the acid you'll stop it, but turns out it's a bacteria.

So as a scientist you have to keep an open mind. So we have a body of evidence that leads us to believe a certain thing at a certain time, but what is subject to change as new evidence is developed.

BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. But you're saying then, Dr. Hamm, that you subscribe to the notion that causation with respect to a disease cannot be established unless the mechanism by which a given agent causes that disease is known, true?

MR. ALLINDER: Objection.

THE WITNESS: I believe that.

BY MR. GILL:

Q. So you would take the view that it's not known from a causation standpoint whether the HIV virus causes AIDS because the mechanism by which HIV might cause AIDS has not been established, true?

MR. ALLINDER: Object to the form.

THE WITNESS: You've picked in my mind not a very good example because we know a lot about the mechanism of HIV. It does attach to certain receptors. It does get rid of your immune system.

So in that particular instance we have a pretty good idea, but it could still change with new information.

There are scientists who don't believe that HIV is caused by the virus, that this is just another disease that people get as a result of some other problem people might have. That's a minority view, but that doesn't some day mean that won't be -- would



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

hold true.

I happen to think we do know what the virus is. We know the mechanism enough to know that it is, in fact, an etiology of that disease. Infectious diseases are much, much simpler.

BY MR. GILL:

Q. So there are even scientists stating the position that they are not prepared to accept that the HIV virus causes AIDS because they don't understand the mechanism has been established; is that your understanding?

MR. ALLINDER: Object to the form.

THE WITNESS: My understanding is that these scientists -- and this isn't my area of expertise, HIV so I'm only reporting what's generally probably thought among scientists.

But my understanding among scientists is that they believe -- you know with HIV you catch a number of diseases. Their view is that there is some other problem that perceives the HIV, just another disease you're catching.

I don't agree with that, but that's the advantage of science is that people who have minority views keep doing research projects and eventually prove to us that they were, in fact, right.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

That's how science advances. If science decides to decide everything with consensus with a lack of data then science will slow down very rapidly its progress.

BY MR. GILL:

Q. But you're of the view that the mechanism by which the HIV viruses causes AIDS has been efficiently established to the extent that you believe the HIV virus causes AIDS; is that correct?

A. Again, making it plain that HIV is not my area of expertise, but that's my opinion, that we know sufficiently enough about that particular organism to accept that that's the cause of the disease.

Q. Now, is this an opinion that you just have recently arrived at within the last few weeks or few months?

A. No. This information has been known for a fairly -- the information I've used to form that basis has been known for a fairly long time.

Q. But has your opinion on that subject, that HIV does cause AIDS and that the mechanism has been satisfactorily established, is that an opinion that you have reached only in the last few weeks or few months?

MR. ALLINDER: Object to the form.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: No. I've reached that opinion when the data was widely reported, but I would still change that opinion if new data comes about that changes my opinion of that information.
BY MR. GILL:
Q. So you held the opinion about AIDS' causation that you've expressed here today at the time that you were deposed in the Mississippi case and in the --
A. That's correct. I should say that at one point the Cancer Institute worked on HIV because they thought that it was caused by a chemical, and so I was actually in a group of people where we did some brainstorming because we knew a lot about chemicals and how to test them with a group of people who thought that HIV was caused by a chemical.
So science has moved a lot on that particular disease in a fairly short period of time. More data then became available when the virus was isolated and the mechanism of how the virus attached to the CD-4 cell and so forth that convinced most scientists that this is, in fact, the mechanism, that all occurred sometime ago.
Q. Switching from whether HIV viruses causes AIDS to whether tobacco smoking causes lung cancer, are you satisfied that the mechanism by which tobacco

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

smoking causes lung cancer has been efficiently established so that you're comfortable with that causation relationship?
MR. ALLINDER: Object to the form.
THE WITNESS: I am not -- I do not think that we know enough about the mechanism. We know almost nothing about the mechanism of how any chemical causes cancer.
So to say that a particular agent causes cancer is fine in a -- I think there is sufficient evidence from the epidemiology, there is a dose response curve that people that get cancer are people that smoke a tremendous number of cigarettes and so forth, but we know that smoking isn't necessary to get lung cancer because people who have never smoked get lung cancer.
We know that lots of people who smoke don't get lung cancer, and so I believe it is a very strong risk factor. But we do not know hardly anything about the mechanism of how it causes cancer.
BY MR. GILL:
Q. Do you believe that smoking causes lung cancer if by causation we mean any change of events that leads finally to lung cancer with smoking as an indispensable link?

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: That's sort of a -- I've read that in the B.A.T. document, and I don't know what that really means.
So I can see how they could ascribe that to lots of people because it would mean something to everybody.
BY MR. GILL:
Q. Which part of that statement about causation and smoking don't you understand?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't understand the whole sentence.
BY MR. GILL:
Q. You don't understand any of it?
A. Very little. It doesn't -- if you would read it to me again, I would give it another try.
Q. Well, let's take it in parts.
A. I'd rather take it in a whole because in parts it may make sense, but the whole statement is what has to make sense.
Q. If a chain of events -- you understand what's meant by that, don't you?
A. Mm-hmm.
Q. You have to answer yes.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

A. Yes.
Q. Leads finally to lung cancer. Do you understand it so far?
A. Yes.
Q. With smoking as an indispensable link would that establish that smoking causes lung cancer?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think smoking is an indispensable link is why I have trouble with the whole sentence I guess.
BY MR. GILL:
Q. So based upon that definition you don't believe that smoking does cause lung cancer because you don't believe that smoking would be an indispensable link in a chain of events that would lead finally to lung cancer?
MR. ALLINDER: Object to the form.
THE WITNESS: There are people who get lung cancer who have never smoked so it's hard for me to believe that smoking is an indispensable link.
I believe that smoking is a strong risk factor. I know that seven to ten percent estimated of people who smoke get lung cancer and it's of a much smaller of percentage who don't smoke.
I don't smoke. I don't recommend anybody



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

to smoke, but as a scientist because we know nothing about the mechanism, I still think there is a possibility that it could be related to some other factor that happens to occur in smokers that doesn't occur in non-smokers.
BY MR. GILL:
Q. But you recognize that the overwhelming majority of victims of lung cancer are smokers, true?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know the exact numbers because it appears to me in the statistics I've read that almost any malady that a person has if they also are a smoker it's ascribed to smoking.
We don't know in many of those people since many who don't smoke can get cancer. Some people who smoke can get cancer irregardless of whether they smoke or not.
So we don't know the numbers. We also don't know the number of non-smokers who get cancer because most don't get autopsies. So we don't know the true number in --
BY MR. GILL:
Q. Are you suggesting you question whether or not the overwhelming majority of lung cancer victims are smokers?

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form. Asked and answered.

THE WITNESS: I would just give my previous answer again. I believe that smoking is a strong risk factor. I believe that those people who smoke three packs a day there is a higher incidence of cancer than those people who don't smoke.

But I don't believe the numbers are sufficiently accurate to start making statements further than that.

BY MR. GILL:

Q. But you're not prepared to accept, Dr. Hamm, that the most overwhelming majority of lung cancer victims are smokers?

MR. ALLINDER: Object to the form.

BY MR. GILL:

Q. Is that true?

A. I have to qualify it more than a yes, no answer. I don't know that the majority of people who have died of lung cancer had anything to do with smoking. I don't know that I saw one paper where twenty-six percent of people who smoke who died with lung cancer the cancer metastasized to the lung.

It wasn't the primary cancer in the first place, but they nevertheless got counted as lung cancer



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

death.
So it isn't my area of expertise. You would have to ask someone in the public health area whether they accept the overwhelming part of your statement.
It seems to me the date is not very convincing. Seven to ten percent of smokers die of lung cancer and a lower percentage of that than non-smokers die.

So I fully believe and agree that smoking is -- is a strong risk factor for getting lung cancer.
Q. The data that indicated that seven to ten percent get lung cancer, people who smoke, that's data you reviewed in reading scientific publications, correct?
MR. ALLINDER: Object.
BY MR. GILL:
Q. You didn't participate in that work, did you?
A. No.
Q. You simply reviewed it and as a scientist it appeared to be reasonably based?
A. Well, it's got all the flaws I just mentioned. We don't autopsy everyone who dies so we don't know what the true incidence is of non-smokers.
We don't know how many of these were metastatic and so forth. It isn't really my area of expertise.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

I'm just repeating to you the things I've read as I've been looking in this area.
Q. But you've stated more than once in the deposition, Dr. Hamm, that your understanding is that seven to ten percent of smokers will contract lung cancer, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: No. That's the amount that's used and I've expressed there are a lot of problems with even that number.
BY MR. GILL:
Q. You're not sure whether that data is accurate or not?
MR. ALLINDER: Objection. Asked and answered.
THE WITNESS: I'm not sure.
BY MR. GILL:
Q. And you've also seen some data that has indicated that approximately ninety percent of all lung cancer victims are smokers?
MR. ALLINDER: Objection to form.
BY MR. GILL:
Q. True, you've seen such data?
MR. ALLINDER: Object to the form.
THE WITNESS: With all the reservation



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

that I've just told you that make that number not --
BY MR. GILL:
Q. I'm just asking whether you've seen the data, Doctor.
A. I've seen that data.
Q. And that data that you've seen indicating that approximately ninety percent of all lung cancer victims are smokers has been contained in scientific publications, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's correct.
BY MR. GILL:
Q. Many of which have been published in peer review journals?
MR. ALLINDER: Object to the form.
THE WITNESS: I can't say that's correct. Most of these figures I've seen have been CDC figures which have gone as far as I know to peer review.
BY MR. GILL:
Q. Would you be more comfortable in accepting that data if you were shown peer reviewed articles that contain it?
MR. ALLINDER: Object to the form.
THE WITNESS: A thing that would

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

tremendously help that number is if all human death were autopsied so we knew what the true incidence of these diseases really are, then we could compare the two.
BY MR. GILL:
Q. That wasn't my question, Dr. Hamm. If you could try to listen to the question and respond.
Would it make you more comfortable in accepting the data that ninety percent of lung cancer victims are smokers if the data had been published in peer review articles?
MR. ALLINDER: Object to the form.
THE WITNESS: I can't give you a yes or no answer of the -- I don't think it matters whether I'm comfortable with the data in any event.
If we would move the number slightly one way or another, it's still a significant number.
BY MR. GILL:
Q. Whether it's eighty-five percent or ninety-five percent?
A. And I believe it's a strong risk factor so -- I don't smoke. I don't recommend anyone to smoke.
Q. Just so we're clear on this, Dr. Hamm, with regard to the data that you reviewed that ninety percent of lung cancer victims are smokers, you're

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

not prepared to accept that data as being scientifically reliable; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: One problem with that data is that if you add up all the diseases that people have died from smoking, it's more people than died. So if someone dies, if they're a smoker, they get listed in several different categories.
BY MR. GILL:
Q. Is that one of the reasons you're not willing to accept the reliability of that data?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think the data is very reliable.
BY MR. GILL:
Q. So since you don't accept the reliability of the data that seven to ten percent of smokers get lung cancer or the data that indicates that ninety percent of lung cancer victims are smokers then you're certainly not prepared to accept the proposition that smoking is indispensable in a chain of events that leads finally to lung cancer?
MR. ALLINDER: Objection to the form. Asked and answered.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. True?
MR. ALLINDER: Misstatement of prior testimony and it's argumentative.
THE WITNESS: I don't believe that it's an indispensable link. I believe I can get lung cancer from a variety of different mechanisms.
BY MR. GILL:
Q. Now, let's go back to your four years at CIIT again. Other than the formaldehyde report which apparently was issued before you joined CIIT; is that correct?
A. I don't know the exact date of the issuance. I believe it was before I went to CIIT.
Q. Any of the reports that you can recall during your four years at CIIT that implicated chemicals distributed by the chemicals that funded CIIT in carcinogenic activity?
MR. ALLINDER: Object to the form.
THE WITNESS: Several, certainly. nitro-benzene is one I remember. There were several others. I don't -- as the person that's generating the data, I'm generating good data.
It's the same way with the Cancer Institute. There were hundreds of chemicals there. Every one of those affected companies when it was



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

found to be a carcinogen.
BY MR. GILL:
Q. With respect to the nitro-benzene, was there again a concern about exposure to that chemical by workers at the plants of the chemical companies?
MR. ALLINDER: Object to the form.
THE WITNESS: Whenever any chemical is found to be carcinogenic, then people get excited about it and begin to wonder about who is affected.
But in that set of experiments as well, we began experiments to try to determine what does it mean for a human.
BY MR. GILL:
Q. With a particular emphasis on what it might mean for workers of the chemical companies, true?
MR. ALLINDER: Object to the form.
THE WITNESS: Well, no. It was intended for everybody. So the reason that we focused on the workers at the chemical companies was simply because those are the people who were exposed to the highest concentration and is therefore most likely to be affected.
Any chemical when you get below certain concentrations, the risk is much less. So we didn't view that we were only looking for chemicals that



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Support https://www.industrydocuments.ucsf.edu/docs/zgxd0001

caused cancer in chemical industry workers, but that's the group we were the most concerned about simply because they had the most potential to be exposed to the highest concentration.

BY MR. GILL:

Q. Now, CIIT had some type of a scientific advisory board, didn't it?

MR. ALLINDER: Object to the form.

THE WITNESS: Yes, it did.

BY MR. GILL:

Q. How many scientists were on there approximately?

A. This has been a while ago, but I would guess it was around ten or twelve.

Q. Were they employees of CIIT or were they serving on this board in some honorary capacity?

A. I don't know the exact relationship, but I think that they were paid consultants who came in to review our work a couple of times a year.

So it would be sort of a -- you would have to -- different people would see it in different ways, but in the days they were in our building they were employed as consultants to review our work.

BY MR. GILL:

Q. Did this board perform any other function as far as you knew other than to review your work?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: I don't know. That's the only capacity I met with them. I assume they provided advice and did a variety of other things to people higher in the organization than I was.
BY MR. GILL:
Q. What was the nature of this board's review of your work; was it to provide input as to further work; was that one of the things the board did?
MR. ALLINDER: Object to the form.
THE WITNESS: This board -- since we had decided this organization was set up to do the work first somewhat by contract and then later in-house, to do the work directly the problem you have in that situation is you need somebody to come review it to see if it's progressing in the way it should be progressing.
And the best way to do that is to hire prominent scientists who know the field to come in and make that kind of review.
So their job was to come in and advise the organization of what we do and what we propose to do in the future; somewhat analogous to reviewing a grant or contract that's some place else.
It just happened to be all our so-called



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

grants or contracts were in the building and they had to come to us directly.

But they did make recommendations about whether our whole program should be scrapped or whether certain parts of it should change, and that was to try to bring that scientific expertise into our organization.

BY MR. GILL:

Q. Now, what are the issues that you intend to address if you are called to the witness stand in the Minnesota tobacco case?

MR. ALLINDER: Object to the form.

THE WITNESS: Well, I'm going to answer all the questions that someone asks me. I'm also going to -- my specific area of main expertise is the design conduct and interpretation of rodent carcinogen studies, animals as well. I shouldn't just say rodent, but it's generally done in rodents.

I've looked at the CTR, I've looked at the mechanisms that were in place to do this work, I've looked at why I did the -- why did they quit doing it, I've looked at who sent papers to whom, who published what, I've looked into Homburger's work as well, and I've looked into a number of other issues related to the conduct of the CTR during the time



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

this was all going on.
BY MR. GILL:
Q. But you prepared a report that has been served in this Minnesota case, correct?
A. That's correct.
Q. And I take it you're the author of that report?
A. I am.
Q. You wrote it yourself?
MR. ALLINDER: Object to the form.
THE WITNESS: I wrote it and then Shook, Hardy & Bacon staff helped prepare it. I had no idea what format. You know I needed some help to determine what, in fact, was required.
BY MR. GILL:
Q. Sure. But I take it that as you were attempting to prepare this report you understood that in general the purpose of the report was to express the opinions that you have formed as a result of the consulting work that you have done with Shook, Hardy & Bacon relative to the lawsuit by the State of Minnesota and Blue Cross Blue Shield against various tobacco companies and CTR, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's my understanding.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. Now, -- and your report attempted to set forth generally and then more specifically various of the opinions that you have formed as a result of the consulting work that you have done for Shook, Hardy & Bacon in this case, correct?

MR. ALLINDER: Object to the form.

THE WITNESS: I don't know if it was general and then more specific. I would have to review it again, but I was attempting to put forward the views that I'm going to express.

BY MR. GILL:

Q. When was the last time you reviewed that report?

A. Two days ago, but I've read a lot of things in the last two days so it's hard to remember specifics.

Q. Well, in connection with the opinions that are contained in your written report what specific issues were you trying to address?

MR. ALLINDER: Object to the form.

THE WITNESS: The -- I have been -- I have seen lots of things where they have been alleging that certain projects were positive, and I looked into my opinion of whether the Microbiological Associates', for example, project was a positive or negative test.

BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. That's one issue. Was the Microbiological Associates' research conducted through funding by CTR a positive or a negative test?
MR. ALLINDER: Object to the form. The report speaks for itself.
BY MR. GILL:
Q. In terms of your understanding of this issue, that was one of the issues you were trying to address?
MR. ALLINDER: It's in the report.
THE WITNESS: It's in the report, yes.
BY MR. GILL:
Q. What other issues were you trying to address in that report?
MR. ALLINDER: Same objection. I'm going to continue all the way through.
THE WITNESS: I would be more comfortable if you put it in front of me. I would be happy to review it and give you more information, but to sit here and try and just give you -- I don't know what you're searching for really here.
I thought I gave you the answer to this question, so --
BY MR. GILL:
Q. As you sit here today can you think of any other



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

issues other than whether the Microbiological Associates' research was positive or negative?
A. Well, I was looking at the allegation that CTR was somewhat acting fraudulent. I was looking at the allegation whether the researchers -- the researchers have made a number of allegations.
In fact, two of their reports were given to me last night.
Q. What issue were you attempting to address with respect to the researchers' allegations?
A. The researchers allege that they weren't allowed to do certain things, so I looked through the records to find any evidence whether that, in fact, occurred.
Q. As to that issue were you trying to come to conclusions as to whether or not the allegations of the researchers with respect to interference and/or intimidation were valid or not valid?
MR. ALLINDER: Object to the form.
THE WITNESS: That would be impossible for me to do. What I was trying to do is see if there was any evidence that any of this had occurred.
BY MR. GILL:
Q. You were trying to determine if there was any evidence that supported the researchers allegations of intimidation and interference?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: That's correct.
BY MR. GILL:
Q. Was there any other issue you were attempting to address in your report?
A. I'm attempting to address all of them that are in my report, and if you wanted to ask me one at a time I would be glad to try to answer.
Q. Are there any other issues from your report that come to your mind as you sit here today then?
A. Why don't you hand me my report and I would be glad to --
Q. I just want to know how well in mind you happen to know your report.
A. Well, obviously I don't have it very well in mind, but if you would hand it to me I would be glad to try to answer your questions.
Q. Have you formed any new opinions since you wrote the report that you would intend to express if you're ever on the witness stand in this trial?
MR. ALLINDER: Object to the form.
THE WITNESS: For one thing I was sent a large quantity of documents by you, I assume, to read the last few days, so I have been and will continue to read those to see if I can find anything.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

But I have and I will prior to the trial try to -- I'll be continuing to read things and so forth.
BY MR. GILL:
Q. I didn't intend that you read them, Dr. Hamm. It was simply up to you whether or not you wished to read them. You did understand that, didn't you?
MR. ALLINDER: Object to the form. Move to strike.
THE WITNESS: I wasn't complaining. I was merely stating --
MR. ALLINDER: Excuse me. There was no question pending. There is nothing to respond to.
BY MR. GILL:
Q. Have you read the documents that were pre-designated by the State of Minnesota and Blue Cross Blue Shield prior to this deposition?
MR. ALLINDER: Designated for his deposition?
BY MR. GILL:
Q. Yes.
A. I got all of them Thursday evening this last week and I attempted to read all of them that I could, and I've read some of them in much more detail than I've read others.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

But I've looked at all of them. I haven't been able to -- some of them were fifty or sixty pages long and I'll have to continue to look at those in more detail.
Q. As a result of doing that reading have you formed any new opinions in this case?
A. No, I haven't.
Q. As a result --
A. But I reserve the right. As I said I haven't finished really investigating those papers. I've sort of superficially read them.
Q. I take it that you've tried to review and digest those documents as well as you could since last Thursday within the amount of free time that you've had available to do consulting work between then and now?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. True?
A. That's exactly true. That's part of the reason if I had had Thursday and Friday -- Friday to look at them, but I had to go to work on Friday, so --
Q. Just so the record is clear, today is Tuesday, correct?
A. That's correct? That's one answer I know for



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

sure.
Q. Now, since you have furnished your written report in the Minnesota case you've reviewed a number of other documents that have been provided to you by Shook, Hardy & Bacon, correct?
A. I -- the list of things that I've reviewed has been provided and I'm involved in enough of these cases now that it's very difficult for me to remember which exact time, but I'm certain the lawyers are keeping that very carefully.
So I don't know exactly when that report came in versus when an individual document came in, but they've been keeping careful track of that, and I've reviewed those sheets and I feel those sheets are accurate; that that is the information I've looked at.
Q. Given the fact that you reviewed your written report a couple of days ago when you reviewed it at that time were you struck by the fact that you now have some new opinions that were not contained in your written report?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't remember having any -- I did not want to make any changes or I'd say so.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. If I'm understanding your last answer correctly, your latest review of your written report two days ago didn't suggest the need to change any of the opinions that you read at that time?
A. That's correct.
Q. And to the extent that your written report sets forth the bases for the opinions that you have formed I take it that you didn't find any reason to change any of the bases for the opinions either?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Do you understand the question?
A. I'm not certain I do. I'm not sure what you mean by the bases for my opinion. Do you mean the primary articles I'm relying on?
Q. All opinions have some basis.
A. Correct.
Q. And some foundation for them.
A. Right.
Q. And to some extent the foundation or bases for your opinions is set forth in your written report, true?
A. That's correct.
Q. Have you changed any of the bases or the



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

foundations for your opinions since you wrote your written report?
A. No, I do not think so.
MR. GILL: Let's break for an hour now.
(Recess taken.)
BY MR. GILL:
Q. Dr. Hamm, did you review any of your testimony over the noon break from this morning?
A. No.
Q. Now, Dr. Hamm, as I recall your written report in this case is confined to a discussion of inhalation studies funded by CTR with respect to either Microbiological Associates or Dr. Homburger. Am I overlooking any?
MR. ALLINDER: Object to the form.
THE WITNESS: I really have looked into all the animal based research regardless of who funded it, and I focused in on the Microbe and Homburger and other things funded by CTR, but I'm qualified to discuss other animal based experiments as well.
BY MR. GILL:
Q. Do you recall whether you referenced any other CTR funded inhalation studies in your written report

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

other than Microbiological Associates and Dr. Homburger?
A. I don't think in my written report, but I think there is something in there to the effect that I can discuss animal based research.
Q. Now, at the time that you prepared that written report had you reviewed documents that had referenced other CTR funded inhalation studies --
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. -- other than MA and Homburger?
A. I've looked at a large number of documents including a -- I've read all the annual reports and so forth. So I've essentially seen documents that cover I think everything in some manner.
Q. That you think covers what again?
A. I've read the animal reports of CTR for every year and so forth, and I have looked at all the animal based experiments in all of those reports.
So I think although I couldn't -- there is a lot of different projects in there, I think I've looked at everything that's been funded by CTR. Certainly everything that's ever been reported.
Q. Now, some of those animal based inhalation studies funded by CTR involved more than one project,

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

correct; some were kind of a continuum of projects?
A. That's correct. Some included a large number of projects.
Q. Now, without breaking a large product into all of its smaller sub-projects, approximately how many CTR inhalation study projects were funded by that organization according to your review of their annual reports.
A. The major -- I don't remember all of the grants, but the major contracts were Microbiological Associates, with Homburger and with Leuchtenberger, the two Leuchtenbergers.
As far as -- there was other work going on, but I have sometimes trouble remembering who's funding it because lots of these are cross-funded.
So I've read the NCI funded projects during that time as well. But those are the major contracts I can remember.
Q. Now, you mentioned that the Microbiological Associates was pursuant to contract, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: It was a program that had both grants and contracts in it I suppose, but the latter part of it definitely was all contracts.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

Q. Did your review of the annual reports regarding Microbiological Associates CTR funded work indicate that there were a number of projects that were grants in the beginning of the relationship, and that as the relationship continued the work was transformed into contract work?

MR. ALLINDER: Object to the form.

THE WITNESS: It didn't appear that way to me, but I wouldn't -- it's so complicated. There were so many activities going on at Microbiological Associates. But the majority of the ones I looked at appeared to me to be contracts from their inception.

BY MR. GILL:

Q. What about with respect to Dr. Homburger; did Dr. Homburger initially receive some grant funding by CTR?

A. I again believe that -- I think that's true, but again, it was difficult to determine which -- when you go back and look at all the documents, it's very difficult to determine which is a grant and which is a contract; it was for me.

Q. You mean even when you look at the annual report and even when you're used to reviewing information like that set forth in the annual reports of CTR it's



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

difficult to tell which studies were funded through grants and which were funded through contracts?
A. It's even difficult to tell -- since many -- all scientists work with a variety of funding sources so you also will notice on most of those publications that more than one granting agency is listed, and I don't know which had grants and which had contracts.
In some cases the publication makes a statement that makes it easy to tell that, but in many cases it's difficult to tell.
Q. How about CTR annual reports, you said you've reviewed all of them?
A. That's correct.
Q. So you've reviewed over forty?
A. I think that's correct.
Q. And as you reviewed more than forty annual reports of CTR were you able to segregate the research projects that were funded through grants from those that were funded through contracts?
MR. ALLINDER: Object to the form.
THE WITNESS: The same answer. That's what I was talking about when I looked at those -- you'll note under most of them there is more than one fund source listed for many of those papers.
Because of the large number, I didn't have

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

time to go back and get all of them or -- nor did I try to determine which were grants and which were contracts.
BY MR. GILL:
Q. But in other words, the annual report, it doesn't have any type of structure to it that segregates the projects funded by grants from the projects that are funded by contracts; is that what you are saying?
MR. ALLINDER: Object to the form.
THE WITNESS: I couldn't say that. In fact, I think after the Micro contracts ended, I don't think there were any more contracts. So from that point on I think everything is grant related. Prior to that I would have to look to see that -- I didn't look at it in that respect to see which were grants and which were contracts so I really can't say.
BY MR. GILL:
Q. When did the funding for MA cease?
A. That's sort of a debatable question too because there were even monies given later to write the report and so forth. So it was in the '80s somewhere where the final money changed hands between the two organizations.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

Q. Do you recall when it was that CTR published a book based upon the research that had been done by MA involving mice inhalation studies?
A. I may be wrong, but I think it's '84.
Q. Would it be safe to say that the funding for MA was cut off sometime prior to '84?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know that that's the case, and including the publication of that book there was another contract again to them to write that report.
So -- and I don't know. I didn't go to look to see how many grants or contracts or whatever they got after that point in time so I don't know, and the big -- the large mouse inhalation study ended prior to that time.
BY MR. GILL:
Q. You're saying after CTR published a blue book containing a report on the lifetime mice inhalation study as you understand it, CTR issued another grant to MA to have MA prepare a written report?
MR. ALLINDER: Object to the form.
THE WITNESS: My memory of that is that there was another contract to write the -- there was another contractual arrangement to write the



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

paper that appeared in JNCI some years later, but I don't know the exact dates of exactly when that money changed hands.
BY MR. GILL:
Q. The article that appeared in the Journal of the National Cancer Institute, that's the article that was authored by Drs. Henry and Kouri?
A. That's correct.
Q. And so you understand that -- that the time that those doctors spent preparing that report for publication in JNCI was paid for through a contract that was funded by CTR?
MR. ALLINDER: Object to the form.
THE WITNESS: I know that, in fact, there was a contract to pay for the blue book, the technical report, and I believe there was a contract to pay for the JNC article as well.
Q. So even with respect to the JNC article CTR had the contractual ability to approve the wording of the report?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know that's the case. I don't remember seeing any such contractual arrangement.
BY MR. GILL:

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. Isn't that your general understanding of how contract research works?
MR. ALLINDER: Object to the form.
THE WITNESS: This was a little unusual. I know a lot about how contract research works, and in general the technical report and publications would have been done as part of the original contract.
So it was unusual to give them more money to do additional work, but otherwise it was not unusual.
BY MR. GILL:
Q. But as far as you know based on your experience with contract research the funding source has the final approval with respect to the wording of any report that might be published?
MR. ALLINDER: Object the form.
BY MR. GILL:
Q. True?
A. In the case of a contract, that's generally spelled out in the contract documents and it probably varies from contract to contract. But in a general case, that is the case, that generally in the contract you spell out what the publication rights are and that becomes a legal part of the contract.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. But generally your understanding is that one of the reasons to fund contract research is to maintain control over the project, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Well, it -- you'd have to define what you mean by control. Contract research is done for a variety of reasons and generally it is done because it's the type of projects that can't be done on a grant. It's too big, it's too complicated, it needs special facilities and so forth.
BY MR. GILL:
Q. But the funding source may wish to gain control over what it gets published, true?
MR. ALLINDER: Object to the form.
THE WITNESS: Well, in a way of speaking, each contract as I said before has the publication rights spelled out as part of the contract.
BY MR. GILL:
Q. And the contracts you're familiar with give the publication rights to the funding source?
A. They vary. There are different arrangements made. There are different kinds of contracts. The Cancer Institute contracts -- I'm not certain how

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

that ended up, but we published them.
We basically published them because we couldn't get the contractors to do it. But as you read different contracts there are a variety of different mechanisms so you would have to get the individual contract and look at it.
There is no real I think set rule. But in general contracts, they do tend to expect that the product is given to the sponsor and the sponsor has the right to refuse it.
But many of those will say we have no -- I've seen other contracts where you have to give it to us for thirty days and then you can publish it regardless of what it says and so forth. So there are a variety of different mechanisms.
Q. In terms of your experience as a scientist you were heavily involved in contract research when you worked for NCI, correct?
A. That's right.
Q. And NCI regained control over the publication rights to the research that those contracts funded, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I just told you I don't honestly know what the contract was, but we did end



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

up publishing those.
BY MR. GILL:
Q. And you told us this morning about this fairly elaborate procedure in which the researcher would present data and interpretations to another outside contractor who would draft a report, correct?
A. That's correct.
Q. And then that draft report would get submitted to NCI and NCI would edit that report as it saw fit?
MR. ALLINDER: Object to the form.
THE WITNESS: That's correct, except I could probably elaborate a little bit that it really wasn't NCI. It was our program.
So to be fair, we were NCI employees, but we were only one component of NCI.
BY MR. GILL:
Q. But you were employees acting on behalf of NCI, correct?
A. That's correct.
Q. And you were involved in contract research at CIIT and there CIIT regained control over the publication of contract research, correct?
A. That's correct, although again, I've never read any of those contracts.
Q. And those two areas comprise all or most of the



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

contract research that you've been involved with in your career as a scientist, correct?
A. I've been sort of secondarily involved in that. I'm involved with all the research projects at whatever university I belong to because I'm the director of animal resources.
So there are lots of contracts that are done at one of our facilities so I'm secondarily involved in all of those.
Q. With respect to contracts funded by an academic institution that you've been associated with, have some of those research results been published?
MR. ALLINDER: Object to the form.
THE WITNESS: In general I don't think I've ever -- do you mean academic -- you said an academic institution that funds contracts?
BY MR. GILL:
Q. Yes.
A. I've never been in an academic institution that funded contracts. They generally fund grants if they fund anything.
Q. I thought you said you had been involved in your capacity at North Carolina State or Stanford in the review of contract research. Did I misunderstand you?

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. You've misunderstood something that I said. I've been involved in the review. I think where I may have confused you was when I just said I've been secondarily involved in contracts at these organizations, but these were contracts from external sources.

So I've been secondarily involved as the laboratory veterinarian on some of these contracts, but I haven't been the principal investigator. I've simply been secondarily involved in the contract of these things.

Q. Have you been acting for and on behalf of the sponsor of the contract?

A. No, I have not.

Q. So in those situations you don't know what rights the sponsors retain?

MR. ALLINDER: Object to the form.

THE WITNESS: In general I don't, but sometimes I have heard -- you know, we talk about what -- different things arise in different contracts so I have heard different people tell me what their relationship is in a contract.

BY MR. GILL:

Q. Now is it your understanding that the Leuchtenbergers' work for CTR was pursuant to grants



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

or contracts?
MR. ALLINDER: Object to form.
THE WITNESS: I don't know.
BY MR. GILL:
Q. Do you recall reading that CTR didn't embark upon the funding of contract research until sometime in the middle to late sixties?
A. I don't remember looking at the exact time that contract research started. I remember one of the documents I looked at that you sent this weekend, when I'll have time to look at it more in the future, there was a meeting of some kind where they were talking about doing some contract work.
Q. The Leuchtenbergers?
A. This included a review of all of the current grantees or contractees, plus a talk about in the future we're going to -- I believe I read it to say we're going to look into doing more contract work.
Q. That was a document you hadn't seen until just a couple of days ago?
MR. ALLINDER: Object to the form.
THE WITNESS: I didn't see it until last night, so it's one of those you sent me last night. I haven't had much time to look at it.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. Was there any particular reason you didn't address the Leuchtenberger animal inhalation studies in your written report?
MR. ALLINDER: Object to the form.
THE WITNESS: I intend to answer questions and provide testimony on any animal related item during this time, but the Leuchtenbergers in general, I wasn't aware of any controversy there.
BY MR. GILL:
Q. Before you wrote your report had you even been aware that the Leuchtenbergers had conducted animal inhalation studies through funding provided by CTR?
MR. ALLINDER: Object to the form.
THE WITNESS: Yes, I was. I had looked at some of their papers and I had seen reports of their information.
BY MR. GILL:
Q. How did it happen that you had looked at some of their papers and seen some information about their studies?
A. Two of their papers are reported in the IARC monograph which looked into all the animal related.
I had heard about and I had seen I believe references to them in some of the CTR information that I was looking at, but I was unaware of any



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

controversy with any of that so I did not pursue it in any more depth.
Q. How did you happen to come to review the IARC monograph?
A. The IARC monograph, one was -- IARC writes a book on each carcinogen and they wrote one on tobacco smoking.
Q. How did you happen to review that document in connection with the consulting work for Shook, Hardy & Bacon?
A. I believe I asked them to send me the IARC monograph, they sent it to me and I looked at the animal related parts of it.
This was not one they asked me to look at. It was one I asked to look at.
Q. Now, as I understand it, since you began doing consulting work for Shook, Hardy & Bacon in connection with tobacco litigation the firm has sent you a number of documents for you to review; is that correct?
A. That's correct.
Q. Many of these documents have been either pleadings or affidavits or deposition transcripts that related to a case that was in suit, correct?
A. Some of the documents. I wouldn't say many of

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

them.
Q. And in addition to those types of documents Shook, Hardy & Bacon sent you documents that were exhibits to depositions and affidavits, correct?
A. I have seen some exhibits, yes.
Q. Now, aside from seeing documents that were exhibits to depositions and affidavits what other tobacco company internal documents or CTR internal documents were you provided by Shook, Hardy & Bacon?
MR. ALLINDER: Object to the form.
THE WITNESS: The tobacco company internal documents, I don't think I received any, other than as part of depositions and that kind of -- I haven't seen internal tobacco company documents. The -- other than those that have come out in a trial or something.
I have seen -- for CTR I read because I didn't want to just read one segment. I read the contract documents for CTR which I think also came out in a -- originally came out at a trial.
BY MR. GILL:
Q. Contract documents for CTR?
A. The documents that are in their files relating to Microbiological Associates. I also, to cover that, looked at the contract documents from



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Microbiological Associates relating to their contract and I compared the two sets.
Each was about several boxes of documents and I compared those to see if I could see what was going on back and forth between the two contracts.
Q. How helpful was that in forming your opinions?
MR. ALLINDER: Object to the form.
THE WITNESS: It along with a lot of other documents helped me to try to see if the things that were being alleged were, in fact, happening.
But in general my opinion is formed basically more on the data, more on what's in the actual experiments. So the other is sort of background to that.
BY MR. GILL:
Q. You went through --
A. There is more documents that I looked at.
Q. You went through a couple of banker's boxes worth of contracts between MA and CTR, correct?
MR. ALLINDER: Objection. Misstates his testimony.
THE WITNESS: When I --
BY MR. GILL:
Q. Is that correct?
MR. ALLINDER: Same objection.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: It's more than a handful. What did you say?
MR. ALLINDER: He said a couple banker's boxes.
BY MR. GILL:
Q. How many banker's boxes was it?
A. I would guess it's fifteen and there were lots of interesting things in there that helped me to see what was happening at the time, because in the original reports -- you know the draft report that was sent is in there so I'm able then to compare it to the published information to see what if anything was changed and so forth.
Q. Let me get this clear --
A. Could I finish the -- you asked me a --
Q. You told me fifteen.
A. Well, I read more than these. I read the minutes of the CTR.
Q. I'm only asking right now about contract documents.
A. I know. I'm trying to finish the question where you asked me what documents did I read.
Q. Let me withdraw that question because you weren't understanding it or I didn't ask it properly.
I'm only asking right now about contracts that



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

you say you have reviewed that as you understood it were between MA and CTR, all right?
A. That's correct.
Q. Now, did you tell me previously that simply in reviewing the contracts themselves that required you to go through documents that comprised a couple of banker's boxes?
MR. ALLINDER: Object to the form.
THE WITNESS: To understand, even to try to investigate the technical report, I need more information to see what if anything was not in the technical report, for example, or what if anything was changed in the technical report.
I could determine that from looking at those contract documents.
I also need to know when I'm reviewing a contract what was the purpose of the contract.
BY MR. GILL:
Q. Dr. Hamm, if you would listen very carefully to my question so we could get this deposition finished as soon as possible.
Limiting your response to the contracts themselves, approximately what volume of paper did that involve, whether you want to express it in banker's boxes or inches in paper or any other

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

convenient reference?
A. As I already answered --
MR. ALLINDER: Excuse me. Let me see if I can help clarify so we can try to resolve the miscommunication.
You were asking Dr. Hamm to quantify for you his estimation of the volume of documents that he reviewed relating to the Microbiological Associates' contract research with CTR?
MR. GILL: Not relating to the contracts, but comprising the contracts.
MR. ALLINDER: Contract only, you're asking specifically about contract?
MR. GILL: That's all I've been asking for the last five minutes.
MR. ALLINDER: I never understood that so I imagine he didn't either.
BY MR. GILL:
Q. Let's start over. Did you review some documents that as you understood it were the actual contracts that had been signed between CTR and MA?
MR. ALLINDER: Do you understand that?
THE WITNESS: If he means the actual contract document itself --



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Support: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. I don't know how to say that any clearer.
MR. ALLINDER: We're getting there, but I didn't understand you.
THE WITNESS: It was included in this volume of contract documents. The contracts themselves, it would be hard to estimate because there is so much redundancy, and I didn't attempt to -- but the contracts themselves are in those documents.
BY MR. GILL:
Q. Did you actually review the contracts themselves?
A. Only superficially. I'm not a legal person and I was looking more for the science and for the data and those kinds of documents.
Q. We have got fifteen different banker's boxes of materials that relate to MA and CTR and part of those materials are the contracts themselves, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: The contracts are included in those documents.
BY MR. GILL:
Q. In addition, to the contracts within those fifteen boxes of documents you had draft reports?
A. That's correct.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. Now, are these -- when you say draft reports -- first of all, are they from the researchers at MA?
A. They are.
Q. And are they basically interim reports on progress with respect to the contract work?
A. Those are in there and the final report is in there as well.
Q. And approximately how many final reports did you review in these fifteen boxes?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm assuming that the number of final reports would coincide more or less with the number of contracts.
MR. ALLINDER: Object to the form.
THE WITNESS: That's not -- there is a tremendous amount of redundancy in these files and I did not attempt at all to decrease that redundancy.
They're also not in a chronological order. I focused more on the final report for the technical report.
So I definitely read it very carefully. Other final reports I noted, they were there and did not really focus on them very much.
BY MR. GILL:
Q. I don't understand that distinction. You read

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

final reports that related to technical data?
A. There were final reports on human studies, there were final reports on tissue culture studies and other kinds of final reports that were not very interesting to what I was looking for.
Q. How many final reports were there on animal inhalation studies?
A. For the technical report there was one, but it's in multiple copies.
Q. And is that final report the one that was included in the blue book published by CTR in 1984?
MR. ALLINDER: Object to the form.
THE WITNESS: That's correct. There were many final reports in there. The one that I looked at most closely was the one that came out in the so-called blue book.
BY MR. GILL:
Q. And among the many final reports, there was one that had to do with an animal inhalation study; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: No, that is incorrect. There were many, many with the Microbiological Associates and there are many, many interim final publications and so forth in each of those studies in



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

there, but I focused more on the one that had to do with the blue book.
BY MR GILL:
Q. And you only sporadically reviewed the other final reports that dealt with inhalation studies?
MR. ALLINDER: Object to the form.
THE WITNESS: Sporadically is a hard word. I've read many of the papers that were the result of these.
Other than the blue book though, I didn't take any of these reports and compare them to the final publication.
BY MR. GILL:
Q. Now, what other types of documents were in the fifteen boxes other than what we have already discussed?
A. There is correspondence.
Q. Correspondence between the researchers and CTR?
A. Yes. Correspondence between members of CTR, there is billing records, there is proposals for new work. There is what you would expect in a group of records like this.
Q. And how much of those types of documents or which of those types of documents have you relied upon in forming any opinions expressed in your

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

written report?
MR. ALLINDER: Object to the form.
THE WITNESS: Some of those documents I pulled out and put into a notebook that has been put on the list of primary things that have formed my opinion, and that notebook includes any document that I thought helped form any of my opinions.
BY MR. GILL:
Q. And has this notebook that you just mentioned, has it been provided to the State of Minnesota and Blue Cross Blue Shield as far as you know?
MR. ALLINDER: Object to the form.
THE WITNESS: As far as I know. The listing of all the primary documents has been provided and I don't know --
BY MR. GILL:
Q. The listing provided in your written report?
A. The listing that was recently provided --
MR. ALLINDER: Object to the form.
THE WITNESS: -- just I think last week.
MR. ALLINDER: Excuse me. You've got the notebook?
THE WITNESS: It's with the original materials that were sent to you.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. In addition to those MA materials, you also reviewed some materials -- before we leave the MA materials, how did you -- were you just shown these fifteen banker's boxes by somebody and said, here they are, Dr. Hamm, go ahead and take a look?
MR. ALLINDER: Excuse me. Object to the form.
THE WITNESS: No. When --
MR. ALLINDER: Let me stop you before you answer the question. I do not understand, Mr. Gill, to be asking you to disclose the substance of any communications with any attorney.
So I think it's just one asking for your understanding or the basic circumstances about which this came about or --
MR. GILL: Let me try to refine the question.
BY MR. GILL:
Q. Did you draw up any type of list of MA, CTR documents that you wanted the attorneys to provide you?
A. I asked for things that I -- it was never written on a list, but I asked them to provide me with those materials.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. You just verbally requested certain types of materials?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Is that right?
A. It's hard for me to know what I can say and what I can't say. I asked for what was available, and when I knew that, I asked for things that I could have.
I can't evaluate the blue book without looking at why was it -- you know there were other aspects of reviewing something like that that is very valuable to have other documents.
Q. In terms of trying to evaluate the blue book do I understand correctly that you wanted to see the report eventually published by Drs. Henry and Kouri in the JNCI publication?
MR. ALLINDER: Object to the form.
THE WITNESS: Could you repeat that question?
BY MR. GILL:
Q. Sure. Were you trying to compare what was in the blue book to what was in the article published in JNCI by Drs. Henry and Kouri?
A. I have done that at some point, but originally



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

that was not anything that was -- I've done that, but what I was doing originally was evaluating the blue book irregardless of what else was published.

Q. So you compared the blue book as published to the final report as submitted by Drs. Henry and Kouri to CTR?

A. I did.

Q. And did you compare what was in the blue book to anything else?

MR. ALLINDER: Object to the form.

THE WITNESS: Well, I have compared to their JNCI article as we have already discussed. I can't think. There may be -- I don't think of anything right now of any other comparisons that I've made.

I've read all the -- the blue book is the end of a large number of experiments, all of which are referenced or most of which are referenced at the end of the blue book.

I've read all of those articles as well and I've compared what's in those articles to what's stated. I always do that.

So when people refer to secondary source, I try to get the secondary source and read it and if the secondary source refers to some other source I



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

may get it as well to see if the -- if what they're referring to is, in fact, correct.
Now, I don't always do that because sometimes it's not of much consequence. But I did read all of those, the abstracts and all the other articles that are referenced in the back of the blue book. I did some cross comparisons with the information.
BY MR. GILL:
Q. Before you wrote your written opinion in the Minnesota case had you reviewed any sworn testimony by Dr. Henry or Dr. Kouri with respect to their recollection of how these events transpired?
A. You're asking me before I reviewed the blue book did I do this?
Q. No. If you would listen carefully to the question, Dr. Hamm. Before you wrote the Minnesota written report did you review any sworn testimony by Drs. Henry or Kouri with respect to their recollections of the events surrounding their contract work for CTR?
MR. ALLINDER: Object to the form of the question.
THE WITNESS: I still have a little trouble knowing the exact dates each of these things

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

transpired, but I do believe I have read -- when you ask about sworn testimony, a deposition I assume fills that criteria?
BY MR. GILL:
Q. Yes, it does, as does an affidavit.
A. And affidavit does as well. I had read the affidavits of Kouri and Henry both, and I have read the deposition of Carol Henry. I have read them certainly today.
Whether I read them prior to writing the Minnesota -- I also think it was prior to that as well.
BY MR. GILL:
Q. But based upon your answers I assume that there was nothing in the sworn testimony of Drs. Henry or Kouri that in any way changed your opinions with respect to those reached as a result of comparing the blue book to the final report submitted by those doctors to CTR?
MR. ALLINDER: Object to the form of the question.
THE WITNESS: I, in fact, have not changed my opinions based on reading those materials. I have, and I don't know the exact timing, gone back and reexamined materials based on things that I have

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

read in their testimony and depositions and I still have not changed my opinions.
BY MR. GILL:
Q. With respect to the Homburger research work that was funded by CTR, what materials did you review in reaching the opinions you expressed in your written report on that?
A. I read the Homburger's papers and I always start by trying to look at the science and then I look at the allegations to see if I can make -- if these things change my opinion of the science.
I had also seen the episode at the meeting where a lawyer or a -- not a lawyer. The PR individual wrote a memo that said he had blocked Dr. Homburger from giving something at a meeting. I had seen that.
I had read not just Homburger's principal papers, the ones that he is contesting, but I read his other animal based Hamster tests.
I also read other contract documents from CTR, from Homburger. So some of those documents that have gone back and forth with regard to Homburger, I read those.
Q. And once again had you provided a list of Homburger documents to the attorneys at Shook, Hardy & Bacon that you wanted to review?

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. When I started to review the Homburger papers, I did a similar thing; I asked what is available and please provide me with everything that's available.
Q. So you left it up to them to determine what was available?
MR. ALLINDER: Object to the form.
THE WITNESS: No. When I found out what was available then I selected what I wanted to see. For example, he has a lot of papers that have nothing to do with hamster research and I don't have time, nor do I have the need to read those.
BY MR. GILL:
Q. But you relied on the attorneys from Shook, Hardy & Bacon as to what was available?
MR. ALLINDER: Object to the form.
THE WITNESS: Not at all. I go regularly to the library. So I get anything I can get in the open literature or anything I can get through inter-library -- so I've gotten materials.
And I also know which of those -- you know bibliographies of these things are easy to get.
So I've never relied on any source to just give me the information because I'm always concerned that I'll only get selected information. That has never been the case with Shook, Hardy & Bacon.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Getting selected information would not be good in terms of arriving at objective unbiased opinions, true?
MR. ALLINDER: Object to the form.
THE WITNESS: I think you should always look at as wide a variety of documents as you can.
BY MR. GILL:
Q. So with regard to both the Homburger and the MA documents you first went to libraries to see what you could find that might relate to those studies?
MR. ALLINDER: Object to the form.
THE WITNESS: I didn't first go to libraries. I did rely on Shook, Hardy & Bacon and I asked them what materials were available, and then asked for those materials they could send me.
It's much easier for me if they send me these things than if I go to the library hunting because that takes a lot of time.
BY MR. GILL:
Q. So initially you relied on Shook, Hardy & Bacon to tell you what types of documents would be available for your review, correct?
MR. ALLINDER: Object to the form.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: I didn't rely on that. That was one source of documents. So there is nothing -- I can't get certain documents through any other mechanism.

So I can't get Microbiological Associates's contract documents other than asking them.

BY MR. GILL:

Q. Other than asking Shook, Hardy to tell you what was available regarding MA and Homburger documents what other sources did you solicit for such documents?

A. I think too I may have confused you a little in that I didn't just say what's available, I said is this kind of information available. And if the answer was yes, then I sometimes requested it.

On other occasions they told me certain things were available and would I be interested in looking at them, and some cases I said yes and some cases I said no.

Q. So part of the time Shook, Hardy & Bacon was suggesting for your consideration certain documents, correct?

MR. ALLINDER: Dick, I think we have probably gone about as far as we can on the protocol in getting into these communications. This is the



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

same question --
MR. PURDY: About a hundred times.
MR. ALLINDER: -- for about the sixth time and now it's getting more specific and more specific and I think we have gone -- you've gone far enough.
BY MR. GILL:
Q. Let's just sum up what we have just discussed. You asked for some types of documents from Shook, Hardy & Bacon and you received some of those for your review, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I've asked for a large number of documents and I've gotten all of them. The only documents I haven't gotten are those documents that I'm not allowed to see because they're covered by some type of protection of some kind.
BY MR. GILL:
Q. And in addition to the documents you asked for Shook, Hardy & Bacon volunteered some other documents for your consideration, true?
A. I would say that's true.
Q. And in addition to Shook, Hardy & Bacon as a source of documents at some point you've gone to the library to see what documents might be related there

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

regarding either Homburger, MA --
MR. ALLINDER: Object to the form.
THE WITNESS: I've done that and looked at other issues as well.
BY MR. GILL:
Q. What other source of documents has there been other than Shook, Hardy & Bacon and the library?
A. I'm talking about other than the library, I've looked at secondary documents that may relate to what I'm thinking about.
Q. Did you go through a similar protocol with regard to Leuchtenberger documents?
MR. ALLINDER: Object to the form.
THE WITNESS: I did very much less there because I had never until recently seen anybody say there was any controversy there.
So I had looked at their documents, to their contribution through the whole inhalation story, and I had seen that, in fact, there were references to them and so forth in these other documents that I've talked about because they were cooperating with Microbiological Associates.
They at one point sent their mice and Microbiological Associates started a colony of their mice as one of the mice that they examined.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

So I had seen a number of things about them, but I had never gone into depth with their documents just from the standpoint I wasn't aware of any controversy with them.

BY MR. GILL:

Q. So among the documents that you requested from Shook, Hardy & Bacon and among those that the firm volunteered for your consideration very few related to the Leuchtenbergers?

MR. ALLINDER: Object to the form.

BY MR. GILL:

Q. Is that correct?

A. I would say in quantity that I have many more documents related to Micro than I do to any other activity, but I also have a fairly large number of Homburger documents.

I have a large number of documents relating to all aspects of inhalation experiments, but the majority -- if you're just talking volume, I have more Microbiological Associates documents than I have any other kind of document at this point in time.

Q. Recognizing that you have mostly MA documents, you apparently received very few Leuchtenberger documents for your review prior to the point where you began to prepare for this deposition and you got



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

some Leuchtenberger documents that have been designated by the State of Minnesota.
MR. ALLINDER: Object to the form.
THE WITNESS: I think I had all the Leuchtenberger documents that I needed and I'm not certain that there are a larger number out there, but if there are a large number of Leuchtenberger documents, I would love to get them and I would be happy to look at them and that would help form my opinion of the Leuchtenbergers.
BY MR. GILL:
Q. I take it you hadn't made any specific request for any sweep of documents relating to the Leuchtenbergers up to this time?
A. No, I have not. If you're talking about have I made a request to sweep the documents for all the Leuchtenberger documents, I haven't made such a request.
Q. At least the Leuchtenberger documents that dealt with animal inhalation studies provided by CTR, you haven't requested those documents?
MR. ALLINDER: Object to the form.
THE WITNESS: I have seen the published papers of the Leuchtenbergers. I have seen the reference to them in the IARC manual. I have

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

looked at their contribution to the then -- that led into the Microbiological Associates work, but I haven't looked in to all the contract documents and so forth that relate to them, no.
BY MR. GILL:
Q. Have you ever asked Shook, Hardy & Bacon to provide you with all of the CTR documents that related to any of the animal inhalation studies that it funded?
MR. ALLINDER: Excuse me. Can you read that question back?
MR. ALLINDER: Object to the form.
(Record read.)
MR. ALLINDER: Object to the form.
THE WITNESS: I'm trying to think. Earlier when I was working on this problem we spent more time talking about the general program, the other things that were going on, and I looked at documents at that time.
As we have come closer to depositions and so forth, I've looked more at other kinds of documents because that seems to me to be more where the controversy was. I've also had a problem with the numbers of documents.
So I wouldn't make a global request at this

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

point unless I had some specific reason to look for something that would help me understand something that I've been asked.
BY MR. GILL:
Q. So you haven't made a global request for all of the animal inhalation study documents generated through CTR funded research?
MR. ALLINDER: Object to the form.
THE WITNESS: I haven't made the request to give me every single document on the planet that relates to this, but I have reviewed a large number of these documents.
BY MR. GILL:
Q. You have gone through the CTR annual reports and attempted to specifically identify each and every animal inhalation study that that organization funded?
A. I have not. It's very difficult to do that. I haven't -- I have attempted to look at all the animal based research in every one of those reports, but it's a fairly large order to do what you've just asked.
I'm not certain that could be done easily. I'm not certain it could be done at all.
Q. Even if you had a hundred and fifty to two

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

hundred hours a month to devote to it?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm certain that I'm spending that amount of time doing what I'm doing already, and to help me form my opinion more than that --
BY MR. GILL:
Q. In addition to MA, Dr. Homburger and the Leuchtenberger documents, what other researchers can you identify who conducted animal inhalation studies through funding from CTR?
MR. ALLINDER: Object to the form.
THE WITNESS: Through funding through CTR?
BY MR. GILL:
Q. Yes, either grant or contract.
A. By animal inhalation, does that include funding machinery development? Do they have to actually expose animals?
Q. Let's deal with animals as opposed to the machinery.
A. There was work going on at Oakridge with -- Griesemer was one of the individuals, but I can't --
Q. What was the name?
A. I don't know if Griesemer had the contract. He



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

worked with -- I can't think of his name.
Q. Can you spell that?
A. G-R-I-E-S-E-M-E-R. There were a number of people at Oakridge that I think were funded through CTR, but the funding came at that time from Cancer Institute, CTR and other under funding agencies and it's sometimes difficult to tell who the funding agency is.
Q. Who else?
A. There was work at Mason Research.
Q. Who else?
A. That may have been -- those are the main ones I can remember right now.
Q. Any others that you can remember even if they weren't main?
MR. ALLINDER: Object to the form.
THE WITNESS: No.
BY MR. GILL:
Q. Now, what was your understanding of the nature of the animal research studies that were funded by CTR relating to Oakridge, Oakridge Laboratory, correct?
A. Right.
Q. What was Oakridge doing?
A. They were developing smoking machines there and



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

testing smoking machines there.
Q. Were they actually doing any animal inhalation studies with the animals?
MR. ALLINDER: Object to the form.
THE WITNESS: You have to -- it's hard to test the machine without trying some animals. So they were at the point where they were trying different exposure regimens and so forth.
They did some work there that I'm not certain who funded it where they completed some studies there. I don't think that was funded by CTR.
I haven't tried real hard to tell who's the funding agency and there is a lot of overlap.
BY MR. GILL:
Q. But the main thrust of the Oakridge work was to develop an adequate smoking machine to be used in other animal inhalation studies?
MR. ALLINDER: Object to the form.
THE WITNESS: I think there was a lot more going on than that.
BY MR. GILL:
Q. Can you recall anything else that was going on?
A. What was happening -- my view of all that was going on at the time is that CTR was attempting to start a major research effort to develop an animal



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

model that could be -- that would develop lung cancer from exposure to tobacco smoke.
A tremendous amount of development work has to go on prior to starting that project, and so there were several places, Mason and Oakridge, that were developing smoking research and each had their expertise. Oakridge had tremendous engineering expertise.
Q. And my question was do you recall any other types of animal inhalation studies that Oakridge was doing with CTR funding other than the development of smoking machines.
MR. ALLINDER: Object to the form.
THE WITNESS: They had a very large research program that included a lot more than developing the machines. I focused on that more because that led into the later projects.
So I was more interested in that, but they were doing a wide variety of products. I don't know which -- as I read their reports, they were in the CTR documents, I don't know for sure when they sent these documents. I didn't check to see if each was CTR funded and so forth.
BY MR. GILL:
Q. Was any of it animal inhalation studies as far

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

as you could tell?
A. There were no long-term and the reason that's important is you can't get cancer in a short-term experiment, but there were definitely short-term experiments to determine what the dose was, how long the animal could take it, did the machine work, those kind of studies.
Q. What dose of tobacco smoke would be?
A. I believe so, but I don't remember that specifically, but that must have been one of the things they were testing.

It's hard to test the machine without doing those kinds of tests, but I don't remember specifically any of those kind of tests.
Q. What type of research was the Mason Laboratory conducting with its funding from CTR?
A. It's hard for me -- when you say funding from CTR, it's hard for me to remember because I don't as a scientist look at the source of funding. I look at what program.

So all of these people may have just been helping CTR to come up with a machine. They may have done it with other funding or developed the machine with totally different funding.

So when you put by CTR in each of your



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

questions, that's difficult because I as a scientist don't rely on what was the source of funding.
Q. To the extent that you were attempting to study animal inhalation studies funded by CTR in connection with your work for Shook, Hardy & Bacon were you able to identify any such animal inhalation study that the Mason Laboratory performed through CTR funding?
A. Well, as I said, by putting funded by CTR, I'm very limited that I don't know what was and what was not funded, but I don't remember any long-term studies. These were more developing the machine type studies as well.
Q. Now, you're familiar with --
A. I'd have to review these articles again and I will to determine -- I may be wrong in who funded them and who didn't.
Q. You're familiar with a document called the Frank Statement?
A. Yes, I am.
Q. When was the last time you reviewed that?
A. I looked at it a couple of days ago as well. I think, in fact, that was another document that was just recently sent to me again.
Q. Let me show you what has been previously marked as Exhibit 3500. Do you recognize this as a copy of

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

the Frank Statement?
A. Yes, I do.
Q. You understand that the Frank Statement was actually an advertisement that appeared in several hundred American newspapers in January of 1954?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know where it appeared, so I wouldn't dispute that that's the case.
BY MR. GILL:
Q. You mean even at this point in your consulting work for Shook, Hardy & Bacon you don't have an understanding of where the Frank Statement appeared or in what type of publications it appeared in?
MR. ALLINDER: Object to the form.
THE WITNESS: I wouldn't say I don't have any understanding, but you asked did I know it appeared in two hundred some newspapers.
I don't, in fact, know it appeared -- I don't know how many it appeared in.
BY MR. GILL:
Q. I don't think I used a specific number. I said several hundred.
A. I don't know that either.
Q. Do you understand the Frank Statement appeared as a paid advertisement in some American newspapers



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

in early 1954?
A. I've been told that, yes.
Q. Is it your understanding that the cigarette's purpose -- cigarette industry's purpose in paying for this ad was to give this statement significant publication?
MR. ALLINDER: Object to the form.
THE WITNESS: That's probably what happened, but I don't know that what's happened.
BY MR. GILL:
Q. If you wanted to give an advertisement significant publication in newspapers the way to do that would be to pay for it to appear in many large metropolitan newspapers, true?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know that -- your use of significant is difficult for me as a scientist because a paid ad in a newspaper, I don't know how significant that is, and I don't know any other way to get it into major newspapers other than to pay for an ad and put it in.
So it would seem to me that by paying for it as an ad, if that's what happened in several hundred major newspapers that would -- that was what they were attempting to do.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. And that would be consistent with seeking to achieve broad publication of this position that is outlined in the Frank Statement, true?
MR. ALLINDER: Object to the form.
THE WITNESS: Well, it -- they -- I'll accept they paid for an ad in a lot of newspapers in a lot of cities.
BY MR. GILL:
Q. And it shows down at the bottom of this ad who is sponsoring this ad, does it not?
A. It does.
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Now, the Frank Statement contains several pledges by members of the tobacco industry to cigarette smokers, does it not?
MR. ALLINDER: Object to the form and I'm not going to continue to make the objection. The document speaks for itself. As long as you agree we have got that --
MR. GILL: That's agreed.
THE WITNESS: I see three enumerated statements here.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. In the column on the right?
A. That's correct.
Q. If you would look at the column on the left there are four enumerated statements in that column, are there not?
A. Those are the ideas of distinguished authorities. So these are the four things that distinguished authorities point out. I don't view them as much as statements of what they're going to do.
Q. But the statements by the distinguished authorities from the perspective of the sponsors of the ad, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know that -- the sponsors as presented here are presidents of tobacco companies. I don't know that they -- in fact, I don't know how this was put together so I don't know that the sponsors per se said this is what distinguished authorities point out.
The Frank Statement points out these four things that are repullulations of what someone thinks distinguished authorities point out.
BY MR. GILL:
Q. But the Frank Statement is an ad that is -- that



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

has been paid for by various cigarette companies, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's my understanding.
BY MR. GILL:
Q. They have sponsored the add, correct?
A. That's my understanding.
Q. And the ad states the perspective of the sponsors, does it not?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know what the mechanism was for the -- I don't know if the sponsors saw this ahead of time. I don't know what the mechanism was.
BY MR. GILL:
Q. Is it reasonable to assume that employees or agents of the sponsors actually drafted the ad?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't have any information about who drafted the ad.
BY MR. GILL:
Q. I asked if it was reasonable to assume that.
MR. ALLINDER: Same objection.
THE WITNESS: I honestly don't have any idea how this was put together. I don't know how

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

when a group of companies decides to place an ad it's done, so I don't really know. And not knowing, it's hard for me to say whether it's reasonable or not. If I put my name on here, I would have wanted to have seen it.
BY MR. GILL:
Q. Have you ever placed an ad?
A. Not that I can think of.
Q. Never attempted to sell anything in the newspaper, never placed any type of an ad for any reason on any subject?
MR. ALLINDER: Object to the form.
THE WITNESS: In a newspaper?
BY MR. GILL:
Q. In any publication.
A. I've made a sign and put it on a telephone pole saying come buy something at my house. That's about as much as I've ever done.
Q. And was the information contained in the sign from your perspective as the sponsor of that particular ad?
A. Well, this is a lot more complex situation. I'm sure on any given day these individuals had a lot more to do than sell stuff at their garage sale so it may have been quite a different --

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. Would you expect the concept would have been different too, that perhaps the sponsors of the ad that were going to appear in several hundred newspapers left it up to disinterested third parties to prepare the ad without their review, authority or consent?

MR. ALLINDER: Object to the form.

MR. PURDY: Object.

THE WITNESS: I don't know what the mechanism was so I can't speculate on how it was done.

BY MR. GILL:

Q. It wouldn't even be safe to speculate that far?

A. I could make assumptions, but I don't know what use it would have been because I have no experience at all.

MR. ALLINDER: Object to the form of that question.

BY MR. GILL:

Q. Can we agree from the perspective of whomever prepared this ad, whenever it was, an agent of the cigarette companies or some totally unknown disinterested party, that person's perspective was as enumerated on the four points in the left column that there was a controversy over whether or not smoking



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

caused lung cancer?
A. Well, I think the four things are right there and they say what they say.
Q. And is it a fair interpretation of those four statements that the author attributes to distinguished authorities that there is a legitimate controversy as to whether or not recently published scientific reports established that smoking causes lung cancer?
A. That's what it says and I think that was the case in 1954.
Q. Now, the very next paragraph after those four points in the left column states, "We accept an interest in people's health as a basic responsibility, paramount to every other consideration in our business." Did I read that correctly?
A. I think so.
Q. As far as you can tell does the word we refer to the cigarette industry?
MR. ALLINDER: Object to the form.
THE WITNESS: It appears to.
BY MR. GILL:
Q. And by saying that the cigarette industry accepts an interest in people's health as a basic



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

responsibility paramount to all other considerations of their business that would include being paramount to their economic interests, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think I can say it any better than it's written. It says we accept an interest in paramount to every other consideration. That's exactly what it says.
BY MR. GILL:
Q. And certainly normally economic considerations are of paramount interest to businesses, true; is that your experience?
MR. ALLINDER: Object to the form.
THE WITNESS: Economic considerations are important to a business. A business has to make money to survive.
BY MR. GILL:
Q. Now, if the recent reports linking smoking with lung cancer were accurate then smokers in America in 1954 had a good deal to be concerned about, true?
MR. ALLINDER: Object to the form.
THE WITNESS: Would you read that question again please?
(Record read.)
MR. ALLINDER: And I object to the

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

form.

THE WITNESS: It's a difficult question because it has a lot of -- the reports could have been accurate in that they reported that skin painting experiments in mice had a relationship that may have no relationship to human health at all.

BY MR. GILL:

Q. Well, take a look if you would, Dr. Hamm, at the very first paragraph of the Frank Statement. Do you see that?

A. The recent reports?

Q. Yes. That paragraph acknowledges that recent reports are linking smoking to lung cancer in human beings, correct?

A. Well that's the lead-in to their distinguished authority saying that this is probably not the case.

Q. But the recent reports are the reports on scientific experiments, correct?

A. That's correct.

Q. And it's those reports that according to the authors have given wide publicity to a theory that smoking is linked with lung cancer in human beings, correct?

A. That's what they say.

Q. Now, if that turned out to be accurate that



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

smoking was linked with lung cancer in human beings then smokers in America in 1954 had a good deal to be concerned about, true?
MR. ALLINDER: Excuse me. Object to the form.
THE WITNESS: I think smokers in 1954 all believed that cigarette smoking caused cancer.
BY MR. GILL:
Q. How old were you in 1954?
A. I was -- I was born in '42. I can't do the math.
Q. Twelve.
A. So I was twelve. I believe when I was twelve years old I had been told by my parents that cigarettes caused lung cancer.
Q. So by the age of twelve you had formed the belief that all smokers -- so by the time you were twelve years old you had formed the belief that all smokers in America believed that smoking caused lung cancer, true?
MR. ALLINDER: Objection to the form.
THE WITNESS: I can't remember exactly any of my beliefs when I was twelve, but it wouldn't surprise me that I had such a belief.
I have never spoken to anyone that I don't

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

think thinks that smoking causes cancer among the public.
So if I were to go stop the next ten people on the street out here today, I think all ten of them would tell me -- and I think that was true many, many years ago.
BY MR. GILL:
Q. Back in 1954 as well?
A. It would not surprise me because we were told -- I believe we were told that even at that time.
Q. Now, this Frank Statement in part attempts to reassure cigarette smokers in 1954, is it not?
MR. ALLINDER: Object to the form.
THE WITNESS: It's difficult to know what the intent of an ad is, but as I read the report it's -- it appears to me to try to give another interpretation of the recent theories that have been promulgated.
BY MR. GILL:
Q. Is a fair interpretation of the Frank Statement that it seeks to reassure smokers?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't -- are you asking the intent? Do I --
BY MR. GILL:

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. No. I asked for an interpretation.
A. Since it's addressed as A Frank Statement to Cigarette Smokers, it appears to me to be an attempt to give another interpretation of what the current state of the knowledge of science in this area is.
Q. And in addition to that or in further answer of that does the Frank Statement also appear to be attempting to reassure smokers that the cigarette industry is going to look into this suggested link?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm sorry. Could you read that question again.
(Record read.)
MR. ALLINDER: Objection to the form.
THE WITNESS: They state they're going to do research to look into this matter. I assume that was to reassure cigarette smokers. I don't know.
BY MR. GILL:
Q. And what you're telling us is that you believe the cigarette industry was totally wasting its money in running an ad that sought to reassure smokers because it wasn't possible to reassure smokers on that point in 1954, true?
MR. ALLINDER: Object to the form.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: I've already said I can't be certain what I thought at twelve years old, but it wouldn't surprise me that the majority of people at that time already believed it.

I'm not certain that any of us reading ads in newspapers change our opinion. I'm not a -- that's not my area of expertise, but no ad in a newspaper has ever changed my opinion on any matter, let alone this one.

BY MR. GILL:

Q. Has that been your opinion for quite sometime?

MR. ALLINDER: Object to the form.

BY MR. GILL:

Q. That ads and newspapers don't change conduct?

MR. ALLINDER: Same objection.

THE WITNESS: I hadn't thought about it, but I just stated what I believe -- so I don't know at what point in time, and I don't think that at any point in time I reached this opinion. I merely stated that I don't think I've changed my opinion on any matter based on an ad or newspaper.

BY MR. GILL:

Q. Would you have been willing to express that opinion to anybody that sought your opinion on that subject?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: I assume I would be.
BY MR. GILL:
Q. Are you aware that your opinion on that subject just happens to coincide with the published opinion of the cigarette industry with respect to whether or not advertising causes people to start smoking?
MR. ALLINDER: Object to the form.
THE WITNESS: I had no idea. I wasn't even thinking it in that context, so I had no idea you were thinking that either.
BY MR. GILL:
Q. But it's never occurred to you that your position on the subject of whether advertising influences smoking is directly in line with the published opinion on --
MR. ALLINDER: Object.
BY MR. GILL:
Q. -- much of the cigarette industry?
MR. ALLINDER: Object to the form.
THE WITNESS: I didn't know it was related.
BY MR. GILL:
Q. Let's go back to reassure smokers in '54. The last time you answered this question I think I heard



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

you say that it was perhaps only the majority of smokers in '54 who believed that cigarette smoking caused lung cancer as opposed to all of them; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't remember what I said before, but I've never spoken that I can remember to anyone who didn't think among the public that cigarettes cause cancer.
BY MR. GILL:
Q. But you're not sure yourself whether they do, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I said among the public. I have talked to scientists who realize that until you know the mechanism, it's a much more difficult question than that.
I was talking about at twelve years old -- you originally started me on what did I think at twelve years old, and as I remember back, I can't remember back a time in my life that people weren't telling me that cigarettes caused cancer.
BY MR. GILL:
Q. But the only people you've ever met in your life who --

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Excuse me. Can you read that last question and answer back?
(Record read.)
BY MR. GILL:
Q. So the only people you've ever met that doubted whether cigarettes caused lung cancer were scientists?
MR. ALLINDER: Object to the form.
THE WITNESS: Well, I haven't polled everybody I've ever met.
BY MR. GILL:
Q. Isn't that correct?
A. But every person --
MR. ALLINDER: Object to the form.
THE WITNESS: Every person who's ever expressed a view on cigarettes and causing cancer other than scientists that I've ever talked to have told me they think that it causes cancer.
BY MR. GILL:
Q. But there is some doubts as far as the scientific community is concerned; that's your understanding?
MR. ALLINDER: Object to the form.
THE WITNESS: I can start again on my whole definition on how I view risk factors and so



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

forth if that's what you're trying to ask.
BY MR. GILL:
Q. But you're not relating the view of members of the public on this subject to simply risk factors, you're telling me that from your perspective it's your understanding that all members of the public that you've ever communicated with on the subject believe smoking causes lung cancer, true?
MR. ALLINDER: Object to the form.
THE WITNESS: I have never talked to anybody among the public when they expressed an opinion on this issue that didn't believe that smoking caused lung cancer.
BY MR. GILL:
Q. Now, assuming for the sake of the next number of questions that there may have been a few among the millions of smokers in 1954 who wanted to believe that smoking did not cause lung cancer, the Frank Statement may very well have been reassuring to those individuals, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm not an expert on public opinion, but I would think that this might make people more afraid because they may feel like, well, why are they doing this if there is no problem.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. So you see at least two problems with the placing of this ad from the perspective of the cigarette industry, one is nobody will believe any attempt to reassure them and secondly, it may make matters worse instead of better; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I believe it -- that probably a lot of people who were reading the major newspapers at the time had no idea about the experiments with mice, and now if any of them read this, which I doubt, I think you might have more people concerned than you did previously.
That is my opinion, but I'm not an expert on this kind of matter.
BY MR. GILL:
Q. So if this was an attempt to reassure the public it was very Ill advised as far as you were concerned from the standpoint of the economic interests of the cigarette companies as a --
MR. ALLINDER: Object to the form.
THE WITNESS: I don't have any kind of expertise to make that kind of -- I just don't know.
I've already told you what I think is that -- I think everybody believed it at the time. I



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

think to try to tell them that you're going to do something because you think otherwise isn't necessarily going to make them feel any better.
BY MR. GILL:
Q. So the whole thing is ill advised as far as you're concerned in terms of what appears to be the objectives of the ad --
MR. ALLINDER: Object to the form.
THE WITNESS: I'm not saying that. I'm just simply giving you my opinion of what I think might have happened.
BY MR. GILL:
Q. In your considered personal opinion, not claiming to be an expert, the ad was ill advised, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Ill advised in what respect?
BY MR. GILL:
Q. Ill advised in that the cigarette companies are spending considerable money to place an ad that will cause them more of a public relations problem than they already had.
MR. ALLINDER: Object to the form.
THE WITNESS: Well, I think they were

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

planning to start a research organization and here they are announcing it and that's a good thing, so you could look at it that way.
BY MR. GILL:
Q. So you do see some public relations' value to the cigarette industry in announcing that they're about to fund a research organization?
A. I think very much good and I think if you're doing it you should be proud of it and you should tell people.
Q. Let's go back to the statement about accepting an interest in people's health as a basic responsibility paramount to every other consideration of our business.
If it turned out that cigarette smoking did cause lung cancer that would be a situation far more serious than the economic interests of some cigarette companies, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Causing cancer with any product is important.
BY MR. GILL:
Q. Would it be more important than the economic interests of some private company that wants to sell cigarettes?

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: Any company, and this is done with all chemicals. Many chemicals have some hazard and a risk benefit analysis has to be done on whether the risks outweigh the benefits.
And so it's a much more complicated question and it would be how much cancer, how severe cancer, et cetera, et cetera, et cetera.
BY MR. GILL:
Q. So you could definitely see some situations where even if smoking did cause lung cancer if it didn't cause too much, the benefits of cigarettes might still outweigh those particular drawbacks as far as you're concerned?
MR. ALLINDER: Object to the form.
THE WITNESS: Well, definitely cancer is a severe drawback, but we still drive automobiles even though there is a fair number of people killed in automobiles.
So you do have to look at all the factors. But no one should discount -- no one wants to cause cancer in anybody.
BY MR. GILL:
Q. Well, one of the benefits of selling cigarettes is that a number of intents that are involved in the



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

chain of distribution is to make money, correct?
A. That's one of the reasons cigarettes are sold, yes.
Q. And certainly you would expect that among those who fair the best in terms of profiting from the sale of cigarettes would be the manufacturers, right?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know that that's the case. I saw a thing in the paper just the other day where it looked to me like the government collects more money than the cigarette companies make in profit, so --
BY MR. GILL:
Q. That's what I meant. Among those intents, the government, the mom and pop stores that sell the cigarettes, stores, the distributors, those that grow the tobacco, among all those you would expect that the cigarette companies who make the cigarettes would be among those who fair the best economically, would you not?
MR. ALLINDER: Object to the form.
THE WITNESS: They are one of the groups, but it looked to me like the government was making more than they were which surprised me.
BY MR. GILL:

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. So that's your belief as you sit here today, that the government makes more off of the sale of cigarettes than the companies that manufacturer them?
A. I didn't say that at all. I said I read a recent article. I haven't had time to look into the facts.
This isn't my area of expertise. Economics of the cigarette industry is not one of the areas I'm real familiar with.
BY MR. GILL:
Q. During the time you have served as a consultant to Shook, Hardy & Bacon and from the time that you understood that their clients were cigarette companies with regard to your consultation, have you paid any attention at all to whether or not cigarette companies are profitable?
MR. ALLINDER: Object to the form.
THE WITNESS: Very little, although I watch CNN every day and I see some of the companies' stocks are doing very well, so --
BY MR. GILL:
Q. Do you own any cigarette company stock?
A. Not that I know of directly. I own a lot of mutual funds that may have cigarette stocks.
Q. Do you look at the reports that mutual funds



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

send you in terms of where they're investing your money?
A. No, I don't. Those go on for pages and pages and it's hundreds and hundreds of industries. I'm always quite impressed at how many stocks are in any particular mutual fund in what small percentage, but other than that I don't look at which ones they are.
BY MR. GILL:
Q. I want you to assume that, in fact, every year since 1954 the members of the cigarette industry have turned a profit selling cigarettes, all right?
A. Okay.
Q. We don't get into the exact amount, but that they make a profit. They pay all their bills and there is money left over for the shareholders, okay?
A. I assume that.
Q. Now, with that in mind would you agree that the health of smokers who may contract lung cancer from cigarettes ought to be paramount to whatever profits cigarette companies might make?
MR. ALLINDER: Object to the form.
THE WITNESS: You lost me with paramount to the profits. That doesn't make sense to me.
BY MR. GILL:

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. Superior to. Ought to be a consideration of more importance than the amount of money that a cigarette company might make.

MR. ALLINDER: Same objection.

THE WITNESS: Well, I think the health of people is important.

BY MR. GILL:

Q. And I understand that, and I think most people think that health is important especially their own, but it's a matter related to what, and what I'm asking you, Dr. Hamm, is do you think the health of smokers ought to be considered as more important than the profits that a cigarette company are able to pass along to their shareholders?

MR. ALLINDER: Object to the form.

THE WITNESS: I still am having trouble relating the two. I don't think any tobacco company wants to give cancer to anybody.

BY MR. GILL:

Q. That wasn't the question, Dr. Hamm.

A. I know, but I'm having trouble with your question. I can't understand how the two -- the profits. Do you want to do something with those profits? I don't understand your question. Maybe you can rephrase it for me.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. Well, if exposing cigarette smokers or some cigarette smokers to lung cancer is necessary in order to enjoy high profits, is that a fair tradeoff on a risk benefit basis as far as you're concerned?

MR. ALLINDER: Object to the form of the question.

THE WITNESS: It's too simple of a question. A risk benefit analysis is a very complicated event. I don't know what all the benefits and all the risks are.

BY MR. GILL:

Q. Do you know any -- what's your understanding of the benefits of cigarettes other than that we have talked about that number of people in the chain of distribution making profits?

MR. ALLINDER: Object to the form.

THE WITNESS: I don't know. I'm not a cigarette smoker. I know cigarette smokers and it seems to me they must be benefiting greatly to take this risk of potentially getting something that they're willing to go ahead and smoke.

So they're fully aware of these risks and there must be some great benefit to them, but I don't know -- to me -- I'm not a smoker.

BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. Well, for instance, with automobiles that you mentioned, there is a risk that if you drive an automobile or even sit in one as a passenger you could be killed in a car accident, correct?
A. That's correct.
Q. But then again, there is a definite benefit to automobiles in that you can get to places a lot faster than if you tried to walk or ride a bicycle or something, correct?
A. There is lots of people in New York and Philadelphia that don't own an automobile.
Q. But there are many people in the United States that feel that it is worth encountering the risk of highway accidents in order to get from here to there in an automobile, right?
A. Yeah, that seems very analogous to me.
Q. Very analogous to cigarettes?
A. You don't have to have an automobile. I wouldn't have to have an automobile. I choose it because it gives me a great deal of convenience and I accept the risks of making that choice.
Q. And do you think that there are some people that consider an automobile as more of a convenience, but really a necessity?
A. I'm sure there are people that consider it that



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

way, but I'm not certain that, in fact, it's the case.
There are many societies that don't have many automobiles that seem to get along fine.
Q. But in our society can you envision there are some people who perhaps need an automobile to get to their job?
A. I would hate to give up the automobile. I'm not advocating giving up the automobile.
Q. What benefits do you see as far as you've been able to tell that smokers derive from cigarettes?
MR. ALLINDER: Object to the form of the question.
THE WITNESS: Well, it's not my area of expertise, but the one, as I already mentioned, seems to be a very powerful one, that people seem to get something out of smoking they're willing to take a risk for.
BY MR. GILL:
Q. But you don't have any idea what it is?
A. I don't. I'm not a smoker. The couple of cigarettes I've tried, I don't get any benefit out of them.
Q. Are you familiar with the subject of addiction?
A. I'm not a -- that's another area that's not my

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

area of expertise.
Q. I'm not asking you this as an expert, but are you generally familiar as an adult living in the United States with the subject of addiction?
A. I don't think the adult in the United States generally is familiar with the definition of these terms, but I'm as familiar with them as the average adult I guess.
Q. I didn't ask for the definition. The subject of. If somebody were to talk about addiction would you have any notion of what in the world they were talking about?
A. I would have the foggiest notion just like most people have a foggy notion of those terms. But those terms are used very specifically and precisely by people who work in that field, and those are the people who can better answer these questions.
Q. Is it your layman's understanding that people who are addicted to something have a hard time stopping using it?
A. They have an almost impossible time, plus they go through a big physiological change during that time.
Q. Isn't it your understanding that any addiction can be broken if the subject shows sufficient



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

motivation?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know. The heroin addicts in New York would make me believe that that's probably not the case.
BY MR. GILL:
Q. Anybody who you have ever heard of was able to break heroin addiction?
MR. ALLINDER: Objection.
THE WITNESS: I've never known anyone who was a heroin addict. I'm certain some people have, but I'm sure there is a large number. That's totally impossible.
BY MR. GILL:
Q. But it's your understanding that is a very strong addiction?
MR. ALLINDER: Objection.
THE WITNESS: It appears to be although this is not an area of my expertise.
BY MR. GILL:
Q. Is it your understanding that nicotine is addictive?
MR. ALLINDER: Object to the form.
THE WITNESS: It's not my area of expertise, but it does not seem to me to be -- if



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

you're going to get into, is it strong or is it weak, I'm not familiar with that area of research.
BY MR. GILL:
Q. I'm not asking you this as an expert, but as --
A. I've known --
Q. -- a lay person.
A. As a lay person I've known hundreds of people that have quit smoking and they didn't seem to have a particularly hard time doing it.
Q. And it's your opinion as a lay person that cigarette smoking is not addictive because of the nicotine?
MR. ALLINDER: Objection to the form.
BY MR. GILL:
Q. Is that correct?
A. I don't feel cigarette smoking is addictive regardless of what we're talking about.
Q. And do you understand that your position as a lay person is in conflict with the Surgeon General of the United States?
A. I don't for a fact know that because since this isn't my area of expertise I don't do any reading in that particular area.
Q. And did you know that your position on addiction is absolutely consistent with that of the cigarette

http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

industry on that same subject?
MR. ALLINDER: Objection to the form.
THE WITNESS: You asked me to tell you my lay opinion?
BY MR. GILL:
Q. Yes.
A. I gave you my lay opinion. I don't know what the tobacco industry's opinion is.
Q. So you don't know what the Surgeon General's opinion is on the addictive qualities of nicotine in cigarettes, and you don't know what the tobacco company's positions are either?
MR. ALLINDER: Excuse me. Asked and answered. Argumentative, Dick. He answered the question pretty thoroughly.
BY MR. GILL:
Q. That's correct, is it not?
A. I would say that's correct, nor do I know the basis when either group makes that decision.
MR. GILL: Let's take a break.
(Recess taken.)
BY MR. GILL:
Q. Dr. Hamm, going back to the Frank Statement about accepting an interest in people's health paramount to every other business consideration.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Basically you're telling me that you're just not sure whether it's reasonable or not for the cigarette industry to make that pledge to smokers; is that correct?

MR. ALLINDER: Object to form.

THE WITNESS: I don't think I said that. I would be disappointed in any industry that didn't consider public health as a basic responsibility.

BY MR. GILL:

Q. Well, would you be disappointed in any industry that didn't put public health above its own economic interest?

MR. ALLINDER: Object to the form.

THE WITNESS: That's the same complicated issue we got into before which is there are risks, there are benefits. It's an analysis I would need more information to know.

If every cigarette gave every person cancer and they made a dime off of it, then definitely that would be a horrible risk benefit ratio, but it's definitely not clear.

BY MR. GILL:

Q. But if the cigarette industry makes enough profit and the deaths are small enough attributable



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

then there may not be sufficient bases to put public health above the profits, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I think public health is always a basic responsibility, but I'm having trouble. You're trying to relate it directly to the profits that are unspecified.
BY MR. GILL:
Q. So if the cigarette industry was researching its economic interest as part of its other business considerations here, you're just not sure whether it would be reasonable for the cigarette industry to put the health of smokers above those economic interests; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I think the health of your people using your product is always one of the highest things you should be looking at.
BY MR. GILL:
Q. Recognizing that it's one of the highest, should it be superior to a business' interest in earning profits?
MR. ALLINDER: Object to the form.
THE WITNESS: I have the same problem with your question. A risk benefit analysis is a

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

very complicated issue.
BY MR. GILL:
Q. Is the answer that you're just not sure?
A. No. My answer is that risk benefit analysis is a very complicated issue, but public health is always a very important consideration.
Q. But are you saying that -- I'm not asking you so much about risk benefit right now, but simply to compare public health in smokers compared to level of profits earned by a cigarette company.
A. That's --
MR. ALLINDER: Excuse me. Is that the question?
BY MR. GILL:
Q. Are you able to say which of those ought to be more important in our society?
MR. ALLINDER: Objection. Asked and answered.
THE WITNESS: Just like the Frank Statement, people's health is a basic responsibility. I can't answer your simplistic question because risk benefit analysis is a very complex formula. I don't know any of the parts of that formula.
BY MR. GILL:
Q. So you're saying you can't answer my question as

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

to which of those two considerations ought to be paramounted, smoker's health or cigarette company profits?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm giving you the same answer it seems like over and over again. You're giving me the same question over and over again.
BY MR. GILL:
Q. I'm trying to get an answer. Are you saying it's one, the other or which?
MR. PURDY: Let me just object to the form there. With all due respect, Counsel, you're arguing with him.
He has answered the question. We could sit here the rest of the day and it's not going to change.
BY MR. GILL:
Q. As between smoker's health on the one hand, cigarette company profits on the other hand, do you have an opinion as to which of those considerations should be paramount?
MR. ALLINDER: Object to the form.
THE WITNESS: I think that public health is always an important consideration, but with any compound that has some kind of adverse effect, a

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

risk benefit analysis is more complicated than just this simplistic one or the other.
That's what I think and I'm not going to change what I think.
BY MR. GILL:
Q. Well, do you think of cigarette company profits in the same sense; that that is also a very important responsibility of a business?
MR. ALLINDER: Object to the form of the question. Asked and answered.
THE WITNESS: A business always tries to make profit. That's sort of the definition after business.
BY MR. GILL:
Q. Now given that you think both of those considerations ought to be important to a business, public health and their profits, are you able to tell --
A. I agree.
Q. -- between those two important considerations which ought to be paramount?
MR. ALLINDER: Objection. Asked and answered.
THE WITNESS: I agree with the Frank Statement that public health is paramount to every

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

other consideration in the business.
BY MR. GILL:
Q. Thank you. Now, the industry goes on to state we believe the products we make are not injurious to health. Do you see that?
A. I do.
Q. Would it have been reasonable for a smoker reading the Frank Statement in '54 to assume that that statement would not have been made by cigarette companies without any bases?
MR. ALLINDER: Object to the form.
THE WITNESS: Would you read that to me again?
(Record read.)
BY MR. GILL:
Q. Let me get rid of the double negatives. Do you believe that cigarette smokers would believe that the companies had a basis to state that they believe their products were not injurious to health?
MR. ALLINDER: Object to the form.
THE WITNESS: Well, I believe the companies had a basis to say what they said in 1954.
BY MR. GILL:
Q. And what do you believe was their basis?
A. They didn't believe that some of the studies

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

that were coming out were easily attributable to human health. That's true today. Skin painting at that time by a number of scientists was not considered valid and it's considered less valid today.
Q. Do you have any understanding of what cigarette companies knew internally in 1954 based upon whatever research those companies had done into the safety of their cigarettes?
MR. ALLINDER: Object to the form.
THE WITNESS: I have seen no company documents so I have no way of knowing what was known in 1954 other than they knew what all scientists knew in 1954, and that was the problem with this kind of a study.
BY MR. GILL:
Q. You don't know what cigarette companies knew internally in '54 or in '97, correct?
A. That's correct. I don't have any access to internal documents of companies.
Q. Presumably a manufacturer ought to have a reasonable state of knowledge about the safety of its products, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I'm actually quite impressed of how much research this industry has

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

sponsored in that exact area, so I think this industry knows more about their product than many other industries.

BY MR. GILL:

Q. But the question was, is it reasonable to expect that the referer of a product will have a reasonable knowledge about whether the product is safe or not?

MR. ALLINDER: Object to the form.

THE WITNESS: It's a very broad question because there are many aspects of a product that may be completely unknown.

So if we're talking about any product, there are many products that are marketed that no one knows they're dangerous until some later time.

BY MR. GILL:

Q. Would it be reasonable to assume that the manufacturer of a product would know more about the safety of its product than some third person picked up off the street indiscriminately and asked to comment?

MR. ALLINDER: Object to the form.

THE WITNESS: I guess it would depend on who the third person picked up indiscriminately was.

It could be a world's renowned authority on



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

that and he would know perhaps more than any individual of the company.
BY MR. GILL:
Q. Representing the statistical odds would you usually expect that within the thousand records of a company that makes products that that company will have more information about whether its products are safe or not than the average individual walking around on the street who may have possibly used the product, but has never manufactured it or designed it or anything else?
MR. ALLINDER: Object to the form.
THE WITNESS: I would assume that certain individuals, scientists perhaps, would have more information than the average person. There may be a huge number of people in the company that don't have any more information.
So if you're talking the company as a whole, I would expect the company to have some information about the safety of their product, but they may not have all or complete information because there is many aspects of safety that they don't even know how to test.
BY MR. GILL:
Q. And the information that company scientists



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

would have, that would presumably be reported up the chain of command up to management, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I would assume that everybody in the company is reporting up the chain of command, but the person up at the top may be getting a variety of views because reasonable scientists can still disagree on these matters because we know so little.
BY MR. GILL:
Q. Is it reasonable to assume that smokers in '54 were reassured that the companies that made the cigarettes believed they were not injurious to health?
A. I don't know how people would perceive this. I don't know, since I was twelve, if people were as cynical then as they are now about advertising.
I'm trying to put my place in the place of 1954 and I'm the average person which is dealt for me to do.
The thing that would reassure me is item number 3 over here, that they're going to set up research activities with a committee of scientists of unimpeachable activity and so forth to set up a scientist to start putting out these grants.
Q. We will get to that. But, in other words, you

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

don't think you would be very reassured as a smoker to know that the company that makes your cigarettes believes that they're not injurious to your health; is that correct?
MR. ALLINDER: Object to the form.
THE WITNESS: As I tried to say, it's difficult for me to put myself into 1954. But in 1997, the average person that I talked to does not trust anyone. They don't trust government, they don't trust companies, they don't trust anybody.
So I don't think in 1997 the average person would be very reassured by that kind of a statement from any company or any government, but I don't know that and certainly in '54 I don't know that.
BY MR. GILL:
Q. What about the next pledge by the cigarette manufacturers that they always have and always will cooperate closely with those whose task it is is to safeguard the public health; do you think that statement was reassuring to the smokers?
MR. ALLINDER: Object to the form.
THE WITNESS: I once again don't know what would or wouldn't reassure the smoker, but I would assume that every company would do that and would hope that any company would do that.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. So you regard that as a reasonable pledge for the cigarette manufacturers to make to their smokers, that they would always cooperate closely with those whose task it was to safeguard the public health?
MR. ALLINDER: Object to the form.
THE WITNESS: I think all companies should do that.
BY MR. GILL:
Q. Now, going to the column on the right, in the third paragraph, the authors of this ad indicate that they're now going to explain what the cigarette industry is going to do in connection with the public concern that's been aroused by the recent reports, correct?
A. That's how I read it.
Q. And then the author sets forth a three point program, correct?
A. That's how I read it.
Q. And under number one, the cigarette industry is pledging aid and assistance to the research effort into all phases of tobacco use and health, correct?
A. That's what it says.
MR. ALLINDER: Objection.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. And that's going to be in addition to whatever research the individual companies are going to do on their own, correct?
A. That's what it says.
Q. And then under number two the cigarette manufacturers announce that the vehicle to provide this aided assistance will be the tobacco industry research committee, correct?
A. Doesn't really read that way to me. It says that they're establishing a joint industry group consisting initially of the undersigned will have that same name, but it doesn't tell me how that relates to one or three.
Q. So as you read item number two you're not sure if it relates back to item number one?
A. Well, it says these are the three things we're going to do and it doesn't really say to me -- I'm very literal when I read documents that it's going to relate to one or three.
Q. How about the language for this purpose, do you have any understanding of what the antecedent was for people?
MR. PURDY: Counsel -- were you trying to finish?
THE WITNESS: I do see that it



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

relates to three, and as I read it further I do see how it relates to one.
BY MR. GILL:
Q. Do you think the language for this purpose in number two relates back to what was pledged in number one?
A. Okay. I'll accept that.
Q. So it's the tobacco research committee that will be the vehicle to provide the aid and assistance to researching all phases of tobacco use and health as set forth in number one?
A. That's correct.
Q. And then under number three it gives some further information how this tobacco industry research committee is going to operate, correct?
A. That's correct.
Q. It indicates that in charge of this committee will be a scientist of unimpeachable integrity, correct?
A. That's what it says.
Q. And it also mentions that a scientific advisory board will be established with scientists disinterested in the cigarette industry.
A. That's what it says.
Q. Now, do you understand, is it reasonable for a

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

reader of the Frank Statement to understand that disinterested in the cigarette industry means that the scientists on the scientific advisory board will have no economic interest in whether cigarette companies make or don't make profits?
MR. ALLINDER: Object to the form.
THE WITNESS: I think that's correct.
BY MR. GILL:
Q. Now, it doesn't make that representation about the research director, does it, or the scientific director of this scientific advisory board? It just says that person will be of unimpeachable integrity, right?
A. That's correct.
Q. And then with respect to the scientific advisory board the ad indicates that those scientists will advise the committee in its research activities, correct?
A. That's what it says.
Q. It would be reasonable then to infer that with respect to the research, that this committee is going to sponsor into all phases of tobacco use and health that scientists on the scientific advisory board will be advising the committee?
MR. ALLINDER: Object to the form.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: You've taken it a little out of context it seems to me in that they'll just be advising the committee on the research efforts of that committee.
BY MR. GILL:
Q. They'll be advising the committee on its research activities, correct, that's what it states?
A. It doesn't say -- you're making it more global it sounds to me like. Maybe I'm miss interpreting your question.
BY MR. GILL:
Q. Well, on number three it indicates that the scientist who comprised the scientific advisory board will advise the committee on the committee's research activities, correct?
A. That's right.
Q. And the research activities that are discussed here are as set forth in number one, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Yes. Well, not the entire part of number one. Number one also talks about individual companies.
BY MR. GILL:
Q. Yes. I was going to separate that out. Aside from the individual company research, number one



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

talks about research that will be done through the sponsorship of this committee, correct?
A. That's correct.
Q. And that research will be an effort into all phases of tobacco use and health, correct?
A. That's correct.
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. So it's with regard to research of all phases of tobacco use and health that the scientific advisory board will advise the committee, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: It will advise the committee on its research efforts and to all phases of tobacco use and health, but not all phases of tobacco use and health because there will be other research being done to this.
BY MR. GILL:
Q. I missed that among the three points. Where did you see that?
A. Well, in one I see that this is in addition to the money already being contributed by individual companies.
Q. And the scientific advisory board of the TIRC isn't going to have anything to do with the how the

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

companies conduct their internal research, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know what all the duties of the committee will or won't be based on this.
BY MR. GILL:
Q. Well, based upon the duties that are set out for this scientific advisory board in this ad, they don't seem to apply to the internal research of the companies, correct?
A. That's correct.
Q. The advice from the scientific advisory board seems to relate to research that's going to be conducted by the TIRC or sponsored by the TIRC, correct?
A. Yes. The scientists will advise the board on research being done by the committee.
Q. And in advising the committee on its research activities this SAB will be advising the committee on all phases of tobacco use and health, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I still think you're trying to make that more global than it appears to me.
They're going to advise the committee on

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

this particular aspect of all phases of tobacco use and health. They're not going to advise the committee on other kinds of research.
The committee may be involved in other things for all I know. It doesn't say in here to me that the committee will be restricted to only do this.
BY MR. GILL:
Q. So if the committee decides to do some research about automobile safety, you don't read this that the scientific advisory board is going to have any involvement in that?
A. That's correct.
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. But if the research is going to be into some phase of tobacco use and health then the scientific advisory board would be advising the committee, true?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't read it that way. I read that this committee will be doing this for this purpose which you've pointed out to me.
BY MR. GILL:
Q. Advising on all phases of tobacco use and

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

health, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: They're excepting out other kinds even in number one, so --
BY MR. GILL:
Q. We have already agreed that they --
A. Money maybe.
Q. Wait a second, Dr. Hamm.
MR. ALLINDER: Wait a second. Let's get a question out and let's get a full answer out.
BY MR. GILL:
Q. We have already agreed that in number one the ad excepts out company sponsored research, correct?
MR. ALLINDER: Object to the form. You may respond.
THE WITNESS: Number one does say specifically this joint financial aid will of course be in addition to what is already being contributed by individual companies.
BY MR. GILL:
Q. And you view that as a reference to research conducted internally by the tobacco companies?
MR. ALLINDER: Object to the form. Misstates testimony.
THE WITNESS: It doesn't say that.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Do you read that exception as to research that is sponsored by the individual tobacco companies, whether they do it internally, whether they contract it out, but simply research that they're each individually sponsoring?
MR. ALLINDER: Object to the form.
THE WITNESS: It doesn't say that either. It says the joint financial aid will of course be in addition to what is already being contributed by individual companies.
So several companies could contribute to something done outside of a company and it would not conflict as I read this with what's written here.
BY MR. GILL:
Q. So several companies could contribute together to some type of research that's totally outside the scope of the activities of this TIRC?
MR. ALLINDER: Object to the form.
THE WITNESS: They could even contract to something -- this doesn't say that the TIRC couldn't participate in such an activity.
BY MR. GILL:
Q. Where does it say that the TIRC would --
MR. ALLINDER: Object to the form.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: It doesn't say that it wouldn't is my only comment.
BY MR. GILL:
Q. But the idea is that the TIRC research will relate to projects that the tobacco companies will not have any economic interest in, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I see only that they're pledging new aid and assistance to the research effort. I don't see any of the words that you just used.
BY MR. GILL:
Q. Well, certainly this scientific advisory board with respect to whatever it is going to be advising the committee on, those scientists are to have no connection to the tobacco companies in terms of economic interest, true?
MR. ALLINDER: Object to the form.
THE WITNESS: It says that the advisory board scientists will be disinterested in the cigarette industry.
BY MR. GILL:
Q. And it also says that the scientists on that board will advise the committee in its research activities, correct?

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Correct?
A. The sentence says that specifically.
Q. And the scope of the research activities as it relates to tobacco use and health as set forth in number one will be all phases, correct?
MR. ALLINDER: Objection to the form.
THE WITNESS: You're reading it in a different way than I read it. It says to me we are pledging aid and assistance in the research effort as to all phases of tobacco use and health.
Q. Period.
A. And that's new money to do some scientific research. It doesn't say -- in fact, the second sentence says this joint financial aid will of course be in addition to what is already being contributed to individual companies.
Q. Let's deal with that first sentence, Dr. Hamm, of number one. The aid and assistance will be to the research effort into all phases of tobacco use and health, correct?
A. That's what the sentence says.
Q. It doesn't exempt any specific phase from that broad category of tobacco use and health, does it?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. No. This is new money to do that. It doesn't exempt other money to do something else.
Q. But this money is going to be put to use with regard to research into not just part of the research effort on tobacco use and health, but all phases of that research effort, true?
A. This amount of money will go into all phases. That does not preclude any other amount of money going into all phases as well.
Q. And with respect to this money that's being pledged to TIRC to sponsor research into all phases of tobacco use and health, the scientific advisory board will be advising the committee with respect to those research activities, true?
MR. ALLINDER: Object to the form.
THE WITNESS: It states that the scientists will advise the committee on the use of this money that is being pledged for this purpose.
BY MR. GILL:
Q. And again, in that statement in number three about the scientists on the SAB advising the committee in its research activities, it doesn't exempt any research activities from that advice, does it?
MR. ALLINDER: Object to the form.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

That same question has been asked and answered about six times.
We're ending up in an argument as to interpretation of a document that speaks for itself.
You can continue if you would like to on this, but it's -- we're spending a lot of time on it.
BY MR. GILL:
Q. But you don't see any exemption in that sentence, do you?
MR. ALLINDER: Object to the form.
THE WITNESS: I see that this new money has been pledged, that these scientists will advise.
Your questions seem to me, although I may be misinterpreting them -- your question seem to me that you think the scientific advisory board will get to advise the companies on all phases of tobacco use and health, and I don't think -- that's not how I read it.
BY MR. GILL:
Q. It says they will advise the committee on all phases of research efforts into tobacco use and health, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: To me it says that with

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

regards to this new aid and assistance.
BY MR. GILL:
Q. And when the scientific advisory board provides research to the committee on all phases of tobacco use and health it in effect is providing advice to the tobacco companies who compose this committee, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's why I didn't agree to your earlier questions. I do not believe this gives the scientific advisory board the power or authority to advise the entire tobacco industry on all phases of tobacco use and health.
It gives them the power to do it for this new aid and assistance which is being pledged in this activity.
BY MR. GILL:
Q. Now, do you see anything in those three items in the right column in addition to the company research that's indicated in number one that suggests that CTR research into tobacco use and health will be conducted outside of the advice offered by the scientific advisory board?
MR. ALLINDER: Object to the form.
THE WITNESS: Could you break that



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

down into smaller -- you threw in in addition to the tobacco companies.
BY MR. GILL:
Q. We have been over it a number of times. There is an indication that the tobacco companies may sponsor some research of their own, correct?
A. Right.
Q. But with regard to the research that's going to be sponsored by this new organization, TIRC, where do you see any communication to the public that some of that TIRC sponsored research will be outside of the activities of this scientific advisory board?
MR. ALLINDER: Objection to the form.
THE WITNESS: I may not understand your question because I think it's the same answer. I see it in number one, the second sentence, this joint financial aid will, of course, be in addition to what is already being contributed by individual companies.
BY MR. GILL:
Q. And individual companies are not sponsoring this TIRC research, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think the language gets me to that point. It says in number

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

one they're pledging this new aid and assistance, number two they're going to pull the committee together.
It doesn't say the committee will only do this. This is one of the things the committee will do.
BY MR. GILL:
Q. In number two it indicates that this committee will be a joint industry group. Do you see that?
A. That's what it says, a joint industry group.
Q. And joint is different than individual, is it not?
A. It is, but individual does not preclude individual -- the thing number one does not, as far as I can see, preclude individual companies from contributing to the same project.
It says merely that they're contributing it. It doesn't say how they're --
Q. Contributing to a TIRC sponsored project, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: It doesn't say what it could be contributed to.
BY MR. GILL:
Q. You're not sure what they're talking about?

http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

A. It says they're going to contribute other monies in other ways to other projects, and that this new money is in addition to that is the way I read it.
Q. And then in the last paragraph it indicates that the cigarette companies believe that the public is entitled to know what it intended to do about investigating these reports that link smoking with lung cancer, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Could I have that question again.
(Record read.)
THE WITNESS: I read that as it's stated to mean, that this is this new aid in assistance that they're pledging to work on this topic.
BY MR. GILL:
Q. Because the public is entitled to know what the cigarette companies intend to do about this matter, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: They are announcing in this ad that they intend to put this new money together under this mechanism. That's what they say to me.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. In that last paragraph the words this statement refers to the aid, add, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: It does.
BY MR. GILL:
Q. And it indicates the statements being issued, correct?
A. Yes.
Q. The statements being issued by the cigarette companies, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Yes.
BY MR. GILL:
Q. And then it indicates why the cigarette companies are issuing the statement, does it not?
A. That's correct.
Q. And the reason it gives is that the cigarette companies believe the public is entitled to know where the cigarette companies stand on this matter, correct?
A. That's what it says.
Q. And by stand on this matter it's referring to the supposed link between smoking and lung cancer, correct?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: I believe that's correct.
BY MR. GILL:
Q. And then it indicates that an additional reason why the ad is being issued is that the cigarette companies believe the public is entitled to know what the cigarette companies intend to do about the supposed link between cigarette smoking and lung cancer, true?
A. That's basically what it says.
Q. Now, what's your understanding of what the Leuchtenbergers discovered during the course of their mice inhalation studies with respect to whether smoking could be related to health concerns?
MR. ALLINDER: Object to the form.
THE WITNESS: They discovered that when animals are exposed to smoke that they get changes in their lungs.
BY MR. GILL:
Q. Good changes or bad changes?
MR. ALLINDER: Object to the form.
THE WITNESS: Well, it's hard to put them in either category because they all healed when the smoke was removed. So they are transitory



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

changes.
But some people felt that they might look like something that could be similar to what was seen in human beings that smoked and the question was do these lesions progress to cancer.
BY MR. GILL:
Q. So these changes that the Leuchtenbergers observed in their mice were lesions?
A. Yes.
Q. Lesions in the lungs?
MR. ALLINDER: Object to the form.
THE WITNESS: All -- anything abnormal in a lung is called a lesion.
BY MR. GILL:
Q. And a lesion would be a histopathological tissue change?
MR. ALLINDER: Object to the form.
THE WITNESS: It could be if someone took a section and looked at it pathologically.
BY MR. GILL:
Q. And did the Leuchtenbergers also discover some tumors in the lungs of mice?
A. No more than in the controlled animals.
Q. Did the research conducted by the Leuchtenbergers on these mice create any concerns at

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

the CTR?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think it created concerns. It created the idea that perhaps a mouse model could be developed to develop lung cancer from smoke.
BY MR. GILL:
Q. But it didn't create any apprehension or concerns at CTR as to how the discoveries of the Leuchtenbergers might impact the cigarette industry?
MR. ALLINDER: Object to the form.
THE WITNESS: Not that I know of.
BY MR. GILL:
Q. Now, the cigarette industry set up this TIRC and it later developed into the CTR, correct?
A. That's correct.
Q. As we discussed there, there is no claim that the scientific director of the scientific advisory board would be disinterested in the cigarette industry, was there?
MR. ALLINDER: Object to the form.
THE WITNESS: There is no claim, but it says he has to be a scientist of unimpeachable integrity and national repute which means he would have to act as a scientist in an uninterested way.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Which means he would have to rise above any conflict of interest he might have with the cigarette industry, correct?
A. That's the implication.
MR. ALLINDER: Object to form.
BY MR. GILL:
Q. And certainly all of the scientific directors of the SAB had a potential conflict of interest with the cigarette industry when they were hired, correct?
MR. ALLINDER: Object to form.
THE WITNESS: Once again that's always a possibility, but the individuals that were selected could have done other kinds of work and made the same amount of money.
There was no reason why I can see this would be a conflict of interest.
BY MR. GILL:
Q. What do the scientific directors of the CTR and its predecessor make?
A. I don't really know.
Q. Then you don't know whether they could have made the same money doing something else, do you?
A. The individuals they selected could have named their own price. They're very sought after



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

individuals.
Q. So they could have named their own price at TIRC or CRT as well?
A. I don't know that.
Q. Well, did you know Dr. Clarence Cook Little prior to the time that you began doing consulting work for Shook, Hardy & Bacon?
MR. ALLINDER: Object to the form.
THE WITNESS: Extremely well because he's a noted authority on mouse genetics and was instrumental in the Jackson Laboratory.
So everybody in the field knows him. I've never met the gentleman, but everybody in the field knows his name.
BY MR. GILL:
Q Are you familiar with the fact that Dr. Little served as scientific director at TIRC and then CTR for approximately seventeen years?
A. I'm not sure of the exact amount of time, but he was there for a good while.
Q. He was the first scientific director?
A. I believe that's correct.
Q. He served for many years?
A. That's my understanding.
Q. Have you read any of Dr. Little's public



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

statements on the issue of whether smoking caused lung cancer or other diseases?
MR. ALLINDER: Object to the form.
THE WITNESS: I've read his statements in the annual reports and I've read now, because you sent them to me, the press releases which in some cases quoted him.
BY MR. GILL:
Q. His statements in the annual reports and in the press releases are relatively consistent over his tenure at TIRC and CTR, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I would have to go back and look at all of them, but as my memory of them is that they're relatively consistent.
BY MR. GILL:
Q. Back in 1954 when he was hired he initially took the public position that the case linking cigarette smoking to lung cancer was not approved, correct?
A. That's correct.
Q. He took the position that there was a serious controversy as to whether or not smoking did cause lung cancer or other diseases?
A. That's correct.
Q. Seventeen years later he was still taking the

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

same position, was he not?
MR. ALLINDER: Object to form.
BY MR. GILL:
Q. The positions he took happened to coincide with the statements of the cigarette industry, true?
A. I think --
MR. ALLINDER: Object to the form.
THE WITNESS: I think there were other people who agreed with Dr. Little.
BY MR. GILL:
Q. And among them were the cigarette manufacturers?
MR. ALLINDER: Object to the form.
THE WITNESS: I haven't read -- I've read Dr. Little's pronouncements. I haven't read the pronouncements of all the cigarette companies, but I would assume most of them were in agreement with Dr. Little, but I don't know that for a fact.
BY MR. GILL:
Q. Have you seen anything published by a cigarette company that admitted the link between smoking and lung cancer or other diseases?
MR. ALLINDER: Object to the form.
THE WITNESS: Other than the Frank Statement, I can't think of where I've seen a pronouncement either way that's been written.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. And certainly the Frank Statement contains no concession that there is a link between smoking and lung cancer, does it?
MR. ALLINDER: Object to the form.
THE WITNESS: I think what the Frank Statement says is that there are alternative interpretations of the data at the time and I think in 1954 that was absolutely correct.
BY MR. GILL:
Q. The Frank Statement contains just the opposite suggestion with regard to whether there is a link between smoking and health, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: As I just said, I think it says they are distinguished authorities and it gives the other side of the story.
BY MR. GILL:
Q. Cigarette manufacturers also state they believe their products are not injurious to health, correct?
A. They do in this.
Q. Lung cancer would have to be considered injurious to health, true?
A. Lung cancer is injurious to health.
Q. So the cigarette companies are stating that they



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

don't believe cigarette smoking causes lung cancer, correct?
A. In the Frank Statement in 1954 that was a reasonable position to take.
Q. And you don't know whether the cigarette companies have continued with that position up until 1997 or whether they vary at all?
MR. ALLINDER: Object to the form.
THE WITNESS: I haven't looked into their pronouncements on this topic.
BY MR. GILL:
Q. But in any case, Dr. Little was paid an annual salary as you understand it by the cigarette industry for his services at TIRC and CTR, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I believe that's true.
BY MR. GILL:
Q. And he certainly faced a potential conflict of interest if, in fact, the research sponsored by TIRC or CTR established that there was a link, a causal link, between smoking and lung cancer, true?
MR. ALLINDER: Object to the form.
THE WITNESS: I think that Clarence Cook-Little said what he believed irregardless of his source of funding, and the things that I've examined

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

and the documents that I've looked at looks like there was a concerted effort to create an animal model that had lung cancer from smoke.

So the concerted effort was there that I think makes me believe that Dr. Little would have been and the rest of the members, because some of this was after Dr. Little was no longer around, that definitely Dr. Little would not have been disturbed at all by finding out information regardless of what it said.

BY MR. GILL:

Q. But Dr. Little's funding was provided by the cigarette industry in the form of his salary, correct?

A. That's correct.

MR. ALLINDER: Object to the form.

BY MR. GILL:

Q. And certainly you recognize that Dr. Little could appreciate that findings by his organization that smoking caused lung cancer would be contrary to the economic interests of his employers, true?

MR. ALLINDER: Object to the form.

THE WITNESS: As I said and I forget the term -- no. As a scientist of unimpeachable integrity and national repute, Dr. Little would



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

subscribe to something I said earlier in that his job was to supply the data. His job was not to try to decide how it would affect the companies.

So as a scientist of unimpeachable integrity, he did not know that he would not --

BY MR. GILL:

Q. Certainly Dr. Little could appreciate that if he published his opinion that smoking caused lung cancer and other diseases, that statement by him would be directly in conflict with the economic interests of the cigarette companies that pay his salaries, true?

MR. ALLINDER: Object to the form.

THE WITNESS: I don't think that would have -- he may have -- he would have considered that if he had found out something it could potentially have an economic consequence, but that would not have deterred him in any way from doing it. And once he did it, it would not deter him in any way from announcing.

Because as a scientist of unimpeachable integrity, he would rather do that and lose his job than do what you are trying to suppose that he would.

BY MR. GILL:

Q. Now, the parties claiming that Dr. Little had unimpeachable integrity were the cigarette companies,



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

correct?
MR. PURDY: Object to the form.
Misstatement of the evidence.
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. In the Frank Statement.
A. This is a group who's saying it, but definitely they could not have gotten away with picking anyone who could have gotten away with such integrity.
Q. And if Dr. Little during his term as the scientific director at CTR ever publicly stated that cigarette smoking caused lung cancer or other diseases we would certainly know that he was of unimpeachable integrity, true?
MR. ALLINDER: Object to the form.
THE WITNESS: He couldn't make such a statement unless he had data.
BY MR. GILL:
Q. But if he ever had made such a statement there would be no doubt about his integrity because such a statement would be directly at odds with his direct employers, true?
MR. ALLINDER: Object to the form.
THE WITNESS: There is no doubt in my mind of his integrity after reading this.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Aside from your assessment of Dr. Little, would you agree with me if Dr. Little publicly announced that cigarette smoking was a contributing causal link in the development of lung cancer that there would be absolutely no doubt about his integrity?
MR. ALLINDER: Object to the form.
THE WITNESS: I think regardless of what he said and including what he said, there is no doubt in my mind of his integrity and including as I looked at what they attempted to do and how they attempted to do it, it was be obvious to me that they were, in fact, attempting to cause cancer in their rodent models so they could study it.
So I have no doubt of his integrity based on what I saw them do.
BY MR. GILL:
Q. You have no doubt about his integrity based upon what occurred with regard to whether studying smoke inhaled by animals might produce lung cancer; is that what you're saying?
MR. ALLINDER: Objection.
THE WITNESS: It goes to more than that. I have no doubt based on the many other things that the TIRC did in those early days; the symposia



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

they had, the committees they formed, the type of research they sponsored. None of that had any of the appearance to me of somebody trying to hide from the truth or trying to structure research to only help the industry.

It looked to me like they were doing a concerted effort to understand how smoking affects health.

BY MR. GILL:

Q. What did the CTR or the TIRC publicly state about Leuchtenbergers' work that was sponsored by TIRC and CTR?

MR. ALLINDER: Object to the form.

THE WITNESS: I think you would have to show me that. I don't know what -- other than reports that this is -- that these are their published reports and so forth. I can't remember that the TIRC made any statement about their work.

BY MR. GILL:

Q. Do you remember that the Leuchtenbergers were the main researchers on smoke inhalation studies for TIRC between 1955 and the late sixties?

MR. ALLINDER: Object to the form.

THE WITNESS: They were doing work funded by the committee during that time.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Do you remember anybody else that was during that time, '55 to the late sixties?
MR. ALLINDER: Object to the form. Asked and answered.
THE WITNESS: Homburger I believe was.
BY MR. GILL:
Q. In that time frame?
A. I believe so.
Q. When did he start?
MR. ALLINDER: Excuse me. Please let him finish.
THE WITNESS: I really don't know when he started.
BY MR. GILL:
Q. Would it be fair to characterize the Leuchtenbergers as the main researchers regarding smoke inhalation between '55 and the late sixties as far as CTR funding was concerned?
MR. ALLINDER: Object to the form. Asked and answered.
THE WITNESS: It's hard for me to put everything in a particular time frame, but I believe Dr. Homburger was also being funded by them at the same time.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. And as between the two who was getting most of the funding, who would have been considered the main researcher?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know the answer to that question.
BY MR. GILL:
Q. You've read all the annual reports, haven't you?
MR. ALLINDER: Were you done with your last answer?
THE WITNESS: No, I wasn't. I don't know how you would even determine words like the main researcher if that's based on total dollars or total papers or -- you know there are very many ways to do so, so I wouldn't know even if I had much more information on them how to say one was more important or prominent or useful than the other.
BY MR. GILL:
Q. Having read all the annual reports of the TIRC between 1955 and the late sixties what do you recall being mentioned about the Leuchtenbergers' work in those reports?
MR. ALLINDER: Objection to the form. Asked and answered.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: I don't remember. I'll have to go back and look at those more carefully.
BY MR. GILL:
Q. Do you ever recall seeing any press releases by the TIRC or CTR that commented upon the Leuchtenbergers' work?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know at this point how many press releases there were. The only press releases I looked at were the ones you sent me recently.
BY MR. GILL:
Q. Do any of those mention the Leuchtenbergers?
A. None of them do. I was surprised at how few there were so it made me wonder if there are more. I would like to see if there are more -- if there are any more.
BY MR. GILL:
Q. Have you made a request to Shook, Hardy & Bacon to the other press releases by TIRC and CTR?
A. I'm interested, but we haven't had time to talk about that.
MR. ALLINDER: Let him finish his question.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. Is it your understanding that the Leuchtenbergers' were sponsored through grants from TIRC?

MR. ALLINDER: Object to the form.

THE WITNESS: We discussed this this morning. I didn't know then and I still don't know whether they were funded by grants or contracts.

BY MR. GILL:

Q. If it were grants the Leuchtenbergers would be absolutely free to publish their reports; is that your understanding?

MR. ALLINDER: Object to the form.

THE WITNESS: We can go through the general here's what a contract is, here's what a grant is, but there are differences among grants and contracts so any kind of provision could be put in either kind of vehicle if the person grows it.

So I don't know what the -- I don't know whether it was a grant or a contract.

BY MR. GILL:

Q. After all this work, Dr. Hamm, do you have a general understanding of whether the researchers who received grant money from CTR were in position to publish their results without any editing or approval from their sponsors?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Object to the form.
THE WITNESS: Everything that I have seen and everything that I have heard and everything that has been reported to me, people who had grants could publish anything they wanted to publish.
But what I was saying to you is you were asking me about their source and manner of funding, I really don't know what the relationship was with the Leuchtenbergers.
BY MR. GILL:
Q. And I think you told me this morning that in your experience with grants usually the sponsor doesn't even know whether or not the researcher is pursuing publication, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's true when you threw usually into the sentence, but there may be occasions where they are aware because one of the reasons is you give an abstract at a meeting.
They may become aware of your research on the basis of that abstract and they may want then to look into it because what you're reporting doesn't seem possible.
BY MR. GILL:
Q. Well the grant money is basically no strings



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

attached money, correct?
A. Not exactly. Much more so than a contract. There is nothing that I've ever had that had no strings attached.
Q. Well, is the inference from the Frank Statement that the research that would be sponsored by TIRC based upon the advice of the SAB would be research undertaken completely independent of the interests of the tobacco companies?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't see anything in the Frank Statement that says anything about how that would be conducted.
BY MR. GILL:
Q. Is there a reasonable inference in the Frank Statement that the results of the research undertaken by the TIRC or sponsored by the TIRC will be made publicly available?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think there is anything in the Frank Statement that addresses that in any way.
BY MR. GILL:
Q. So it would be fair for a reader of the Frank Statement to look at that ad and say, well, the

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

tobacco industry is establishing this organization, but they will filter the results of the research and they'll only let me know about that research that tends to exonerate cigarettes?
MR. ALLINDER: Object to the form.
THE WITNESS: There is nothing in the Frank Statement that says either of those things nor leads you to that inference.
On the other hand, as a member of the public I would want any funding agency to attempt to correct anything that they thought was incorrect in a published statement.
So if someone decided to present something that I knew, in fact -- let's say when I was at the Cancer Institute, if someone had published an abstract where they said a lesion was one thing and we didn't think it was, then we definitely would have gotten involved and attempted to change that.
BY MR. GILL:
Q. And you recognize that if the employees of the CTR or the TIRC swing into action attempting to stifle the publication of a grant researcher that they would have a potential conflict of interest?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't see the conflict

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

of interest in that any scientists who knows something else is -- or thinks something else is incorrect should act on that, and it does the public no good at all to publish papers that are incorrect.
BY MR. GILL:
Q. And that would be true with respect to incorrect research that was paid for by the cigarette industry, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: It would be true regardless of who paid for it.
BY MR. GILL:
Q. And if the employees of CTR learned that a grant researcher believed that he or she found evidence linking cigarettes to disease they would naturally be aware that such news would adversely affect the economic interests of the owners of the TIRC and CTR, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know that they would because as I said, at this point in time and since then there has been skin painted evidence, there has been epidemiology. I don't know that another paper is going to affect anybody's perception of this issue.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Until you've read the documents that the State of Minnesota and Blue Cross Blue Shield had pre-designated for your deposition were you aware that tobacco company employees understood that employees of TIRC or CTR attempted to talk the Leuchtenbergers out of publishing a research paper that the Leuchtenbergers had intended to publish?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't think even after reading the documents that that's what I got out of that document, but I would -- I -- that one I just got recently.
BY MR. GILL:
Q. Did you know anything about any efforts on behalf of TIRC or CTR to influence publication decisions by the Leuchtenbergers related to their mice inhalation studies sponsored by CTR and TIRC?
MR. ALLINDER: Object to the form.
THE WITNESS: I haven't seen anything where that's the case and I think including the things that have been sent to me recently, although I haven't had much time to read those.
I didn't know there was a controversy with the Leuchtenberger papers at all. I saw no evidence



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

of that in the things that I've read.
MR. GILL: Would you mark this?
(Plaintiffs' Deposition Exhibit No. 3336 - 1/7/69 memo - marked for identification.)
BY MR. GILL:
Q. Showing you Exhibit 3336, is this a document you reviewed in preparation for your deposition?
A. I believe this is one I got last evening.
MR. ALLINDER: Excuse me. May I ask you a question please? This is your letter of the 12th. I'm wondering whether you've got this document designated. You have the first page, the Bates number for the first page of this document indicated. I'm assuming, to make sure the record is clear, that the ending page of this document is the last four digits of the Bates number 1331; is that right?
MR. GILL: Well --
MR. ALLINDER: Do you see you've got the first page listed only as the pre-designation?
MR. GILL: I think we were just attempting to list the first page.
MR. ALLINDER: And the last page of this document, to make sure the record is clear, is Bates number 1331, the last four digits.
MR. GILL: Okay.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

MR. ALLINDER: Is that right?
MR. GILL: Yes.
BY MR. GILL:
Q. Exhibit 3336 is a memorandum dated January 7, 1969, correct?
A. That's correct.
Q. It's to a Mr. Goldsmith from a Mr. Wakeham, correct?
A. Mm-hmm, that's correct.
Q. Do you know who those individuals are?
A. Helmut Wakeham I've heard of before. I don't know who Mr. Goldsmith is.
Q. Who do you understand Mr. Wakeham to be?
A. He's the -- I think -- I think he was with Brown & Williamson and moved to TIRC.
Q. Mr. Wakeham?
A. That's how I remember it.
Q. What was his capacity?
A. I can't keep all these people straight.
Q. Is it your understanding Mr. Wakeham was a scientist or is a scientist?
A. I think that's correct, but -- I think he was a scientific director but I could be wrong. He may be a lawyer. He's a lawyer or scientific director. I forget which of the two.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. At CTR?
A. No, at the tobacco company. I don't know what his capacity was when he got to CTR.
Q. Assuming Mr. Wakeham was a scientific director at a tobacco company in January of 1969, he's apparently commenting on an article that appeared in Fortune magazine in the January of '69 edition that focused on the Leuchtenbergers, correct?
A. That's what it says in the memo.
Q. If you would look at the second page of the exhibit. Wakeham has already referenced a number of studies that the Leuchtenbergers have done in the field ever mice inhalation, correct?
A. He's referenced their papers, yes.
Q. Then in -- I guess the first full paragraph on the second page he says this work has been supported in part by CTR and is well known to scientists following the field of smoking and health research. Do you see that?
A I see that.
Q. He says that in 1967 the Leuchtenbergers proposed to summarize some of their findings with chronic inhalation in a paper which was to be presented to the American Association of Cancer Research. Do you see that?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. I see that.
Q. And that they submitted an abstract of the paper so that it could be printed in the program for the meeting?
A. I see that.
Q. And in the program for the meeting the paper was identified as work by the Leuchtenbergers regarding a change of frequency and of spectrum of tumors in Snell's mice after chronic inhalation of fresh intermittent cigarette smoke. Do you see that?
A. I lost you. Can you direct me? I don't see the Snell's --
Q. Page 2 there is a reference to an abstract and then it identifies the paper that the abstract relates to.
A. I'm sorry. I wasn't looking at the citation. I see it.
Q. So the paper that the Leuchtenbergers were going to submit to this cancer research conference was going to deal with tumors observed after chronic inhalation of cigarette smoke, correct?
MR. ALLINDER: Object to form.
THE WITNESS: That's I think what it says.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

Q. Then Wakeham goes onto state that subsequent to the submission of the abstract, the manuscript for the Leuchtenbergers' paper was examined by people at CTR. Do you see that?
A. I see that.
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Now, this is not the usual course of events as you understand it with regard to the publication of a paper that relates to grant research, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: No. As I said earlier this could happen. If someone saw an abstract and what was in it didn't seem correct, it would be very appropriate to ask for a paper.
BY MR. GILL:
Q. Well if it's grant research how in the world would somebody know from the abstract whether the summary of the findings was valid or not?
MR. ALLINDER: Excuse me. Object to the form.
THE WITNESS: That's the whole point of a scientific abstract is to communicate the key findings of a paper.
So anyone reading them if they can't



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

determine that, then it's a very poorly written abstract.
BY MR. GILL:
Q. Well, they may be able to determine the findings, but realize that those findings are in conflict with the interests of the entity that supported the research, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: Another interpretation might be that they thought the findings in the abstract may not be correct.
BY MR. GILL:
Q. Not correct in the sense of not valid?
A. Not correct in a variety of circumstances; one that being it may not be valid.
Q. Well, what else do you have in mind? Poor use of grammar?
MR. ALLINDER: You're talking over him.
THE WITNESS: You would get to go ahead the idea of the paper being examined and it would be to see if whatever you thought was wrong in the abstract was supported in the paper because the paper would have more information in it.
BY MR. GILL:
Q. Now, typically would the sponsors of the

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

research know more about validity of a study than the people who actually did the research?
A. They might.
Q. They might?
A. They might. Many times in research of this type you need a whole team of people to do the entire research, and it's -- there are many classic examples throughout the years where people have very high esteem and integrity, have made diagnosis particularly in the area of pathology and where the pathology may not have been up to snuff. That happens very commonly and would not be unusual.
Q. So, in other words, it wouldn't have been unusual if CTR had retained the Leuchtenbergers to do some research that the Leuchtenbergers simply weren't competent to do?
MR. ALLINDER: Object to the form.
THE WITNESS: That's not what I said at all. The Leuchtenbergers were indeed competent to do this, but they may not have done all the measurements to be done at the end.
MR. ALLINDER: Can we take a break here for a second about whether we're going continue?
(Recess taken.)

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

MR. GILL: Would you read my last question and the answer please?
(Record read.)
BY MR. GILL:
Q. If the Leuchtenbergers were competent to do the research presumably they would be competent to do the measurements at the end of the research, wouldn't they?
A. That's very unusual in science. You need teams of people and it's very common among very prominent scientists, particularly with the pathology interpretation of these kinds of inputs. So this is not usual at all.
Q. And are you familiar with the reputation of the Leuchtenbergers as scientists?
A. I never knew the Leuchtenbergers or met the Leuchtenbergers, but I have heard of some of their work.
Q. But that's about it, you've heard of their work?
A. That's about it. I've read their papers, but I thought you meant prior to getting involved in this level of looking into the Leuchtenbergers.
Q. But according to the Wakeham memorandum, apparently the Leuchtenbergers' abstract was going to say that mice inhaling fresh whole smoke in its



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

gaseous phase for a year or longer displayed a broader spectrum in a higher frequency of tumors than controls of the same strain.

These findings suggest that inhalation of fresh cigarette smoke may enhance carcinogens in mice, correct; that's what the abstract was going to say?

MR. ALLINDER: Object to the form.

BY MR. GILL:

Q. That's what the abstract did say, correct?

MR. ALLINDER: Object to the form.

THE WITNESS: You were close. You changed it a little in that it was a gaseous phase instead of and, but other than that, that's what's in this paper.

BY MR. GILL:

Q. So the abstract was going to say that the Leuchtenbergers' findings suggested that Inhalation of fresh cigarette smoke may enhance carcinogens in mice, correct?

MR. ALLINDER: Object to the form.

BY MR. GILL:

Q. Is that your understanding?

A. According to this memo. So this is Wakeham's interpretation. It does have quotes around it, but I don't know what the original abstract says. But



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

that's what it does say in his memo.
Q. Wakeham refers to it in the memo as being a major point in the abstract, correct?
A. Yes, and it would have been because no one would have been able to cause tumors in a mouse, and so this would be a new finding and people would be interested in it.
Q. And Leuchtenbergers' findings were also that regardless of whether you looked at the whole smoke or just the gaseous phase of the smoke the results were basically the same, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I would have to go read their abstract. That -- they're exactly the same is not in here.
BY MR. GILL:
Q. Well, it says mice inhaling gaseous phase for a year or longer displayed a broader spectrum and a higher frequency of tumors than controls of the same strength, correct?
A. That's what it says, but it doesn't say exactly the same as you put in your previous question.
Q. But according to the abstract there is a broader spectrum and higher frequency of tumors between the study group and the controls, not only for whole

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

smoke but also for the gaseous phase of smoke, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's basically what it says.
BY MR. GILL:
Q. And those findings would have particular implications with respect to whether or not filters on cigarettes were reducing health risks, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's a possible interpretation because that's how you change whole smoking to a gaseous phase. That's one way.
BY MR. GILL:
Q. Through its filter?
A. I'm not an expert on how filters and cigarettes -- and how that works, but that's one possible interpretation.
Q. But I take it that you understand that at least part of the function on the filter of a cigarette is to trap the tars from the smoke so that the smoker doesn't ingest the tar, true?
MR. ALLINDER: Object to the form.
THE WITNESS: That's my understanding of it, but I know very little about filters and none



http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

of them really as far as I know take out all of the the tar.
BY MR. GILL:
Q. But the assumption for the filter is that the tars may indeed be harmful and if so the filter will reduce the amount of tar that the smoker ingests, correct?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. True?
A. That's one of the concepts of using a filter.
Q. But if the gaseous phase of the smoke will itself produce ill health effects, the filter isn't going to do any good with regard to that problem, true?
MR. ALLINDER: Object to the form.
THE WITNESS: It really isn't my area of expertise. I know nothing about filters. I think this paper would have been -- people would have been interested in it if fresh whole smoke would have caused cancer because that had not been done in animals before.
BY MR. GILL:
Q. And this particular paper claiming to find that cigarette smoke enhanced carcinogens in mice would

http://legacy.library.ucsf.edu/tid/dsn35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

have been a report that would have likely adversely affected the economic interests of cigarette companies, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I have no idea what an individual paper does towards the economics of a company.
BY MR. GILL:
Q. Well, an animal study demonstrating a relationship between cigarette smoke and disease would be supportive of epidemiological studies that established such a relationship, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: It's the kind of thing that, in fact, the CTR was very anxious to do, to try to get some other corroboration of that input.
BY MR. GILL:
Q. So answering that, according to Wakeham, "People connected with the Council for Tobacco Research who felt that the work did not adequately support the conclusions persuaded the Leuchtenbergers to withdraw the paper and not present it at the meeting," correct?
MR. ALLINDER: Object to the form.
THE WITNESS: That's why earlier I

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

said there was no controversy because if the Leuchtenbergers had not agreed with this then there would have been some kind of controversy.

The fact that they accepted this means to me that the Leuchtenbergers agreed with that analysis of their paper.

BY MR. GILL:

Q. Well, the people from CTR who attempted to "persuade" the Leuchtenbergers not to present this paper at the meeting were in a position to affect future funding for projects the Leuchtenbergers may have wished to pursue, true?

MR. ALLINDER: Object to the form.

THE WITNESS: That would be exactly the reason why you wouldn't submit to this kind of pressure nor would you want more funding from someone who would subject you to inappropriate pressure.

So I'm sure the Leuchtenbergers could get funding from other places and they weren't going to withdraw a paper that they didn't believe in, based on not getting further funding.

BY MR. GILL:

Q. But if the Leuchtenbergers gave in to some persuasion from representatives of CTR and withdraw their paper you certainly would be very critical of



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

the Leuchtenbergers for doing that, wouldn't you?
A. Not if they agreed with the persuasion. So if the Leuchtenbergers were sufficiently convinced that they had misdiagnosed this tumor and withdrew their paper that would be completely appropriate and this happens all the time.
Q. So you think it's likely that the Leuchtenbergers after conducting this long study and having done all the research and prepared an abstract and a paper would have been talked out of their opinions by some people from CTR who hadn't been there when the Leuchtenbergers did their work?
MR. ALLINDER: Object to the form.
THE WITNESS: It doesn't matter whether the people were there. The data speaks for itself and I can only conclude the Leuchtenbergers agreed with this analysis of their data. These tumors are still being argued about today.
BY MR. GILL:
Q. If the Leuchtenbergers didn't agree with their attempt to persuade them, but agreed anyway and submitted their paper, I take it you would be critical of the Leuchtenbergers?
A. If the Leuchtenbergers simply withdrew it for that reason, I would be critical of them and I

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

wouldn't expect to see them around in the future.
Q. And if the representatives from CTR were attempting to persuade the Leuchtenbergers to withdraw the paper, were doing so to protect an economic interest of the cigarette industries that paid for their salaries, would you be critical of those --
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. You don't have any idea one way or the other, do you, Doctor?
A. No one except the people that were there have any idea.
Q. Are you just falling back on the position that you explained earlier today, that you would assume when third parties attempt to influence researchers with respect to publication of papers that they're doing it based upon genuine search for scientific truth?
MR. ALLINDER: Object to the form.
THE WITNESS: I think that based on the scientists that were on the scientific advisory board that if CTR had mishandled the Leuchtenbergers, then you would have seen mass resignations of scientists because the scientific community would not



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

have allowed them to be treated in that fashion, and I saw no --
BY MR. GILL:
Q. Do you draw that opinion as an advocate of the cigarette industry or an advocate to let the chips fall with regard to your --
MR. ALLINDER: Objection. Argumentative.
THE WITNESS: I am not an advocate of the cigarette industry and I never have been, and I draw that conclusion as a scientific expert who has a lot of experience in these matters.
BY MR. GILL:
Q. Where in the Wakeham memorandum do you see the SAB of the CTR was involved in this effort to persuade Leuchtenbergers to withdraw the paper?
MR. ALLINDER: Objection to the form.
THE WITNESS: Nothing in the Wakeham memo says that, but believe me, I know scientists and if the Leuchtenbergers felt they were handled inappropriately, the first people they would have talked to would have been the scientific advisory board, plus other scientists around the country.
BY MR. GILL:
Q. Do you know whether the Leuchtenbergers ever did

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

complain publicly about the manner in which the CTR representatives attempted to influence their publication of their research work?
A. I've never seen that. If you have such a thing, I would like to see it. I've never --
Q. So if --
A. I'd like to finish. I've looked through a lot of the documentation where I think if it had been a serious controversy, I would have seen something about it.
Q. No one from Shook, Hardy & Bacon have shown you any documents that showed that the Leuchtenbergers publicly complained?
MR. ALLINDER: Object to the form.
THE WITNESS: I may have, may not. I've seen so many documents that it's very difficult to be certain of every document that I've looked at. So I may have seen this document before.
BY MR. GILL:
Q. Well, Exhibit 3336 doesn't contain any public complaints by the Leuchtenbergers, does it?
A. Could I finish the last question? The fact of that is that I have seen -- could you read the question? Could you read it?
(Record read.)

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

THE WITNESS: And the reason that I haven't looked into it further is I didn't see any real controversy here, and the controversy would have been that the Leuchtenbergers would have complained to somebody and that would have been -- it would have been something -- this -- if you got a scientist of this prominence to withdraw a paper and they felt like it was inappropriate, it would not be hidden.

BY MR. GILL:

Q. So if the Leuchtenbergers publicly complained about undue influence from CTR that would give the Leuchtenbergers' complaint more credence in your mind?

A. If I had some evidence that, in fact, there had been any complaint that would make me believe that there was more of a problem here. Because I do not think this would have been kept -- no one withdraws a paper lightly unless they agree with the reasons for withdrawing.

Q. And no one has showed you any document that indicated that the Leuchtenbergers publicly complained about undue influence from CTR?

MR. ALLINDER: Object to the form.

THE WITNESS: I don't think so, but I'm also going to remind myself that I've seen so



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

many documents that I wouldn't guarantee that I haven't seen one.
But since this hasn't been a controversy in my mind, I've read so many documents, it's possible that -- but I don't remember the Leuchtenbergers publicly complaining about this issue at all.
It seems to me the Leuchtenbergers continued to work with the CTR and sent mice to Microbiological Associates and so forth, actions that don't seem like someone who is unhappy with the organization in any way.
BY MR. GILL:
Q. And the Leuchtenbergers continued to be funded after they apparently withdrew the paper?
A. I believe that's the case. The Leuchtenbergers -- well, I believe that's the case, but I can't remember exactly.
Q. Now, you understand that one of the allegations in the Minnesota lawsuit against the tobacco industry is that CTR conspired with tobacco companies to suppress information establishing the link between smoking and lung cancer?
MR. ALLINDER: Object to the form.
BY MR. GILL:
Q. Is that true?

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

A. I don't remember all of the allegations. I remember there are allegations of fraudulent activity by CTR.
Q. Do you remember that there is an allegation that CTR conspired with the tobacco companies in accomplishing suppressing information the link between smoking and disease?
A. I wouldn't say specifically but I wouldn't deny that it's in there.
Q. Assuming that that's an allegation in this case and it wouldn't surprise you that there were, if you had read a document in which the Leuchtenbergers publicly complained about alleged undue influence by CTR with regard to dissemination of their research, such a complaint would be consistent with the allegation, correct?
A. If -- well, it would depend. If the -- the complaint could be consistent with it, and I don't remember reading such an allegation, and I do believe I would remember reading such an allegation. But I've read a lot of documents.
Q. So you're saying that given what you understood your task here was or one of your tasks, if somebody had showed you a paper in which the Leuchtenbergers complained about undue influence you think you would



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

have commented something about that complaint to memory with regard to your consulting work on this case?

MR. ALLINDER: Object to the form.

THE WITNESS: I would, in fact, investigate the issue more.

BY MR. GILL:

Q. And so since you can't recall any such incident it's your assumption that nobody has showed you such a document?

MR. ALLINDER: Object to the form.

THE WITNESS: All of the things I've seen about the Leuchtenbergers, it appears to me that they were content and worked along with CTR. They were present at conferences, they were publishing papers. I didn't see anything that made me think the Leuchtenbergers were in any way unhappy.

But I've read such a large volume of documents, I wouldn't guarantee that I haven't seen such a document, but I do not remember such a document today.

BY MR. GILL:

Q. If you saw one it should have stood out, right?

MR. ALLINDER: Object to the form.

THE WITNESS: It would help if someone



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

had pointed out to me the controversy, but I have yet to see the controversy in this, and it may be because I don't view this as a controversy. This is a natural thing that happens in science.
BY MR. GILL:
Q. Do you think it's a natural thing that a researcher working on grant research is about to issue a paper at a conference and the research sponsor persuades them to withdraw the paper --
MR. ALLINDER: Object to the form.
THE WITNESS: I think that, in fact, you could probably find instances of that from almost every funding agency.
I forgot when I was telling you earlier about our reports on our grants I forgot, in fact, that we file annual reports of our progress, and so forth.
So there are other mechanisms besides abstracts, and I may think of more later, where our sponsors do see what we're doing and it would be up to a sponsor -- if I were a sponsor and you were intending to publish something that I thought was incorrect, it would be my responsibility to get involved and to talk to you because it does no good to publish to erroneous results.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. Is that common place or is that unusual when a grant sponsors attempts to get a researcher to withdraw a paper?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't have any data to know how common that is.
BY MR. GILL:
Q. Is there a view in science that it's a good thing to allow the publication of research data and to open for debate the value of the data?
MR. ALLINDER: Excuse me. Object to the form.
THE WITNESS: That is, in fact, a good thing, but it would be an even better thing and with my own papers if anybody -- not only my sponsors but if anybody knew that I was about to publish something that was incorrect, I would want to know that prior to publication.
Science is messy enough when we do our best, so to publish things that editors know are incorrect, that is editors know are incorrect, to simply allow to us comment on it, is simply wasting our time.
The Leuchtenbergers did not have to take



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

this opinion. If they did not agree with it, they were required as scientists to go ahead and make that known.
BY MR. GILL:
Q. So your assumption to this incident as reported by Wakeham is that members of the CTR, employees of CTR, simply knew that the Leuchtenbergers' conclusions that inhalation of cigarette smoke may enhance carcinogenic in mice was wrong?
MR. PURDY: Object to the form.
MR. ALLINDER: Object to the form.
THE WITNESS: Since no one had ever done that, I think that -- even today, if you came out with this abstract you would have people who would want to see your slides, look at your information, who would want to know if, in fact, you are correct. I don't think this is unusual at all.
BY MR. GILL:
Q. So you assumed that the employees at the CTR simply knew that the Leuchtenbergers must be wrong with regards to suggesting a relationship between cigarette smoke and carcinogens in mice?
MR. ALLINDER: Object to the form.
THE WITNESS: This doesn't give me that information. This says simply that based on

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

this abstract they asked to see the paper.
Based on a more detailed study of the paper then they determined -- and it doesn't say who was involved with that. It mentions Dr. Lewis Lee.
I don't know who else he showed it to or who else commented on it, but at that point is when they decided that there were some problems with the paper which it appears to me the Leuchtenbergers agreed with since they withdrew the paper.
BY MR. GILL:
Q. Is it surprising to you that all this information about this incident was in the hands of a scientific director of research for a tobacco company?
MR. ALLINDER: Object to the form.
THE WITNESS: It doesn't matter to me who sees it. If I'm about to publish a paper and there is anybody on the planet who can give me information that my opinions are wrong, I'm going to listen to that opinion.
If the Leuchtenbergers didn't agree with it, then they would have gone ahead and published the paper.
BY MR. GILL:
Q. If they didn't agree with it they should have



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

gone ahead and published the paper, correct?
A. I believe they would have knowing the Leuchtenbergers. I know a lot of scientists and you'll get very -- not get very far by threatening a scientist that his work is wrong.
Q. Is it surprising to you that this incident had been reported to the scientific director of a tobacco company?
MR. ALLINDER: Object to the form.
THE WITNESS: I thought Wakeham moved it some place. I'll have to look at this more carefully to see in what context.
I don't know in what context he knew about this. I don't know who told him. I don't know whether he loosely talked to him.
So I don't know if I can answer your question, and I'm not sure after reading it much more carefully I'll be able to answer your question either.
BY MR. GILL:
Q. Well, reading it based upon the level of review you've already given it, it's apparent that Wakeham didn't have firsthand knowledge of these events, correct?
MR. ALLINDER: Object to the form.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

BY MR. GILL:
Q. He doesn't state he's there, that he participated, does he?
A. I don't believe so, but I would have to read it much more carefully.
Q. I want you to assume that Wakeham is the director of research and development at Philip Morris.
What would Wakeham be doing with this information and is he reporting it to one of his superiors?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't know why or how. The Leuchtenbergers presented an abstract so that's in the public domain. Everybody knew about the abstract.
BY MR. GILL:
Q. Everybody?
A. Well, everybody that read the abstract. They submitted the abstract.
Q. I see. So perhaps Wakeham saw the abstract prior to the time that the people from the CTR persuaded Leuchtenbergers to withdraw the paper?
MR. ALLINDER: Object to the form.
BY MR. GILL:



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

Q. That would explain it?
MR. ALLINDER: Object to the form.
THE WITNESS: I didn't say that at all.
BY MR. GILL:
Q. Is that a possibility in your mind?
MR. ALLINDER: Object to the form.
THE WITNESS: When I have sent abstracts out, I have sent them to a wide variety of people prior to submission.
BY MR. GILL:
Q. So that might have been one possible explanation as to why representatives of CTR were anxious to persuade Leuchtenbergers to withdraw their paper?
MR. ALLINDER: Object to the form.
THE WITNESS: No. This abstract was submitted and printed in the proceedings of a meeting. Everybody who is interested in this field reads those abstracts. So that's likely where he saw this abstract.
BY MR. GILL:
Q. Well, you would expect that the director of research and development at a cigarette company might be interested in an abstract that contained that type of information, true?



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

A. I would expect.
MR. ALLINDER: Excuse me. Object to the form.
THE WITNESS: I would expect the scientific director of a company to require -- want any information that had to do with tobacco or lung cancer.
BY MR. GILL:
Q. And especially any such paper that linked tobacco to lung cancer, correct?
A. I would be --
MR. ALLINDER: Object to the form.
THE WITNESS: I would think that he would be interested in any paper that had anything to do with tobacco smoke.
MR. GILL: Would you mark this?
(Plaintiffs' Deposition Exhibit No. 3327 - July, 1968 document - marked for identification.)
MR. ALLINDER: This exhibit is a document that begins with Bates number 682011648 and continues through 1657.
MR. GILL: Correct.
MR. ALLINDER: And in addition there is another Bates number on the front page that's marked through and it's 1005124666 and runs through

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

4675. Do we have the right reference?
MR. GILL: That's correct.
THE WITNESS: Did we get the whole thing? Did we just get the front page of this?
MR. ALLINDER: This is the one from yesterday that we only had the front page.
THE WITNESS: So we didn't get everything after --
MR. ALLINDER: Dr. Hamm is telling me prior to the deposition he did not have anything subsequent to the front page if that affects the way you want to proceed your examination.
BY MR. GILL:
Q. You have read the first page of Exhibit 3337 in preparation for the deposition, correct?
A. That's correct.
Q. This is a progress report dated August 20, 1968 that --
MR. ALLINDER: Object to the form. Actually it says comments on the progress report, but the document does speak for itself.
BY MR. GILL:
Q. Is that correct, Dr. Hamm, this is a document that contains comments on the progress report submitted by Dr. Cecilie Leuchtenberger in July of



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

'68, correct?
A. That's correct. I believe it's Cecilie. I think it's a woman though. Cecilie.
Q. You're correct. It is Cecilie. And the dates of the comment is August 20, '68?
A. That's correct.
Q. And it's on the letterhead of the Council for Tobacco Research USA, correct?
A. It has that designation in the left-hand corner. I don't know what their letterhead looks like.
Q. And in the first paragraph of these comments the author points out that the first Council grant to Dr Leuchtenberger for cigarette smoke inhalation studies with mice was activated as of June 1 of 1955. Do you see that?
MR. ALLINDER: Can you give me a reference?
MR. GILL: First sentence.
THE WITNESS: That's what it says in the first sentence.
BY MR. GILL:
Q. And then the author goes on to state that Dr. Leuchtenberger's program has continued without interruption during the thirteen years since that date, and it's therefore probably the oldest



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

sustained study in its field. Did I read that correctly?
A. That's what it says.
Q. So does this refresh your recollection that the Leuchtenbergers had been at it a long time on animal inhalation studies under grants supplied by TIRC as of July, 1968?
MR. ALLINDER: Object to the form.
THE WITNESS: That's what it says here.
BY MR. GILL:
Q. In the second paragraph the author states that the present comprehensive report of the latest phase of Dr. Leuchtenberger's work certainly merits the most careful reading and consideration of the implications that can or cannot be drawn legitimately from the results, correct?
A. That's what it says.
Q. Now, would this be typical for a funding agency to attempt to analyze all of the implications that could be drawn from some work that's still in progress?
MR. ALLINDER: Object to the form.
THE WITNESS: The reason we read progress reports is we're hoping somebody's reading

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

them, and this sounds to me like he's saying read this carefully.
BY MR. GILL:
Q. Do you have any idea to whom this comment on the Leuchtenbergers' progress report is being sent?
A. No, I don't. There is no --
Q. Given what you know about the TIRC would you expect that comments on the Leuchtenbergers' progress reports would be sent to the tobacco companies?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't have any idea to whom it was sent nor do I know that this was sent to them.
It appears to have ended up in the Brown & Williamson files, but I don't know how it got there.
BY MR. GILL:
Q. The most logical explanation would be that it was sent, true?
MR. ALLINDER: Object to the form. Calls for speculation.
THE WITNESS: I don't have -- it would be interesting to see 82010116 -- 47 which is the sheet preceding this in this file to see a cover letter that would tell us how it got there.
But I don't know how it got there based on

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

what's in front of me. It could have got there in a variety of ways I would assume.
BY MR. GILL:
Q. What are some of the things that come to your mind other than how it was sent to them?
MR. ALLINDER: Object to form.
THE WITNESS: I don't know, but if this was the National Cancer Institute you could write to them and ask for them, so any citizen could have one.
BY MR. GILL:
Q. Which would involve CTR sending one to Brown & Williamson, correct?
MR. ALLINDER: Object to the form.
THE WITNESS: I don't understand your question.
BY MR. GILL:
Q. If Brown & Williamson requested a copy then it would end up with Brown & Williamson because CTR sent it?
MR. ALLINDER: Object to the form.
THE WITNESS: Nowhere was it apparent that it was sent in 1968 as opposed to 1997.
BY MR. GILL:
Q. What other reasons or methods come to your mind

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccoindustrydocuments.ucsf.edu/docs/zgxd0001

as to how Brown & Williamson could have got its hands on this document?
MR. ALLINDER: Objection to the form. Calls for speculation.
THE WITNESS: I have no way of knowing. I don't know, in fact, if this ever was in the Brown & Williamson files. I just said that because it says B&W.
BY MR. GILL:
Q. I want you to assume it did come from Brown & Williamson's files. With that assumption how would it have gotten there?
MR. ALLINDER: Objection to the form. Calls for speculation. Asked and answered.
THE WITNESS: I still don't know how it would have gotten to that file.
BY MR. GILL:
Q. You told me all kinds of other ways popped into your mind as to how it could have gotten there, and I'm just asking what are the other ways other than CTR sending it to them?
A. I don't know who had this so it would be harder. But anyone that had it could have sent it to them. Cecilie Leuchtenberger could have sent it to them. I don't know who had it.

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

Q. We certainly don't know whether Cecilie Leuchtenbergers had this document.
A. As I stated --
MR. ALLINDER: I object to all these questions. Calls for speculation. Asked and answered.
THE WITNESS: As I stated, I don't know who had it.
BY MR. GILL:
Q. Do you see the initials on the last page of the document, the initials of the author?
A. I can't -- it looks like either RCH or RCM.
Q. If it's RCH do you have any idea whose initials those are relative to principals of CTR?
A. I don't know what Hoyt's -- the only H I can think of offhand is Hoyt.
Q. How about Hockett?
A. Hockett?
Q. Hockett.
A. I hadn't thought of him, but that's another person that ends in H. So he may have written the comments.
I still don't know who sent this to anybody. There is no signature so I don't know, in fact, that he ever saw it.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

There is no date stamp of when it was received so there is very little information here. It says it's a copy.

I don't know when -- whether that's a part of this and it's marked also confidential, and I don't know when any of these markings appeared on it, so --

Q. Do you think it might have been a forgery?

MR. ALLINDER: Object to the form. Would you like him to take a look at this tonight since he didn't have an opportunity to prior to the deposition?

MR. GILL: Off the record.

(Discussion held off the record.)

MR. GILL: Let's break and we will pick it up tomorrow at 9:00 o'clock.

* * *



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001

C O N F I D E N T I A L

C E R T I F I C A T E

I, NANCY K. JOHNS, hereby certify that I am qualified as a verbatim shorthand reporter; that I took in stenographic shorthand the testimony of THOMAS E. HAMM, D.V.M., Ph.D., at the time and place aforesaid; and that the foregoing transcript consisting of pages 1 through 330 is a true and correct, full and complete transcription of said shorthand notes, to the best of my ability.

Dated at Minneapolis, Minnesota, this day of September, 1997.

_____

Nancy K. Johns, Notary Public
Hennepin County, Minnesota
My commission expires January 31, 2000.



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

C O N F I D E N T I A L

C E R T I F I C A T I O N

I, THOMAS E. HAMM, D.V.M., Ph.D., the deponent, hereby certify that I have read the foregoing transcript consisting of pages 1 through 330, and that said transcript is a true and correct, full and complete transcription of my deposition except:

THOMAS E. HAMM, JR., D.V.M., Ph.D.
Deponent

Sworn and subscribed to before me this day of , 1997.

Notary Public

My commission expires



http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.tobaccodocuments.ucsf.edu/docs/zgxd0001

http://legacy.library.ucsf.edu/tid/dsm35a00/pdf
Source: http://www.industrydocuments.ucsf.edu/docs/zgxd0001